

STATE OF WASHINGTON
BOARD OF PILOTAGE COMISSIONERS
REQUEST FOR PROPOSALS (RFP)
RFP NO. 15-001

PROJECT TITLE: Washington State MARINE PILOT WRITTEN EXAMINATION AND SIMULATOR EVALUATION

PROPOSAL DUE DATE: March 11, 2015 at 5:00 p.m. Pacific Daylight Time, Seattle, Washington, USA.

ESTIMATED TIME PERIOD FOR CONTRACT: March 24, 2015 through March 23, 2016. The BPC reserves the right to extend the contract for up to two additional one-year periods at the sole discretion of the BPC.

CONSULTANT ELIGIBILITY: This procurement is open to those consultants that satisfy the minimum qualifications stated herein and that are available for work in Washington State.

NOTE: *If you download this RFP from the Board of Pilotage Commissioners' (BPC) website located at: www.pilotage.wa.gov you are responsible for sending your name, address, e-mail address, and telephone number to the RFP Coordinator in order for your organization to receive any RFP amendments or bidder questions/BPC answers.*

Hard copy or Electronic proposals will be accepted. Faxed proposals will not.

CONTENTS OF THE REQUEST FOR PROPOSALS:

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1.1 PURPOSE AND BACKGROUND

The Washington State Board of Pilotage Commissioners (BPC) is making a Request for Proposals (RFP) from qualified individuals, companies, or organizations for the purposes of developing, validating, administering, grading, scoring, ranking, and defending a written examination and simulator evaluation. The finished product will consist of a written examination and a simulator evaluation that will be given sometime on or after October 1, 2015. The written examination and simulator evaluation must be developed in accordance with the applicable sections of the Washington Administrative Code (WAC) and Revised Code of Washington (RCW). A copy of chapter 88.16 RCW is annexed to this RFP as Exhibit A. A copy of chapter 363-116 WAC is annexed to this RFP as Exhibit B. The BPC reserves the right to amend chapter 88.16 RCW and chapter 363-116 WAC, attached hereto, as it deems necessary to implement its duties under chapter 88.16 RCW and chapter 363-116 WAC.

The purpose of the written examination and simulator evaluation is to evaluate and rank potential applicants for entry into a BPC administered training program to train to become a Washington state licensed marine pilot for either the Puget Sound Pilotage District or the Grays Harbor Pilotage District in Washington. A description of BPC administered training programs is set forth in WAC 363-116-078, (See Exhibit B to this RFP). Pilot applicants, who have successfully completed the written examination and simulator evaluation, enter into a training program when the Board determines there is a need for an additional pilot in either the Puget Sound Pilotage District or the Grays Harbor Pilotage District. Pursuant to State law at RCW 88.16.090(4) a pilot applicant is eligible for entry into the BPC administered training program and eligible to be issued a training license no more than four years after successfully completing the written entry examination.

The BPC is a governmental agency authorized by Washington State law to regulate and issue training licenses to pilot applicants who enter into the BPC training program after successfully completing a written examination and simulator evaluation. The BPC's mission is to ensure that licensed pilots and licensed trainee pilots provide safe and efficient pilotage and trainee pilotage services in the pilotage district for which they are licensed. Pilot applicants will be highly experienced professional mariners from all over the United States and may include men and women who may be of diverse backgrounds, who have met the State's requirements to qualify to take the written examination and simulator evaluation.

Upon successful completion of the training program and when the board deems an additional pilot is necessary, the BPC issues a pilot license to the successful pilot trainee. The examinations and evaluations and the process of the development, administration and validation of the examinations and evaluations must be developed with the strictest confidentiality. State law at RCW 88.16.090(5) provides that "Any person who willfully gives advance knowledge of information contained on a pilot examination or other evaluation is guilty of a gross misdemeanor."

The BPC intends to award *one* contract to provide the services described in this RFP.

1.2 OBJECTIVE AND SCOPE OF WORK

The Written Examination

WAC 363-116-076 provides the following information about the written examination and its subject matter:

WAC 363-116-076 Examination for pilot applicants. (1) Pilot applicants must pass a written examination given and graded by the board or the board's designated contracting entity. The board, in consultation with its designated contracting entity, will develop the written examination and set the minimum passing or "cut" score in conformance with a psychometrically validated process. Notice of the examination shall be published at least four months in advance by one paid advertisement in a major marine industry publication and written notice to any party who has requested notice of such examinations. The board may publish additional notices in such publications or in other media at such times as it deems appropriate. Applications will be accepted by the board immediately following the publication of the notice of the examination. The board may, in an emergency, call for an examination on less than four months notice.

The notice shall indicate which pilotage district or districts the examination is for and, if for both districts, the notice shall make it clear that applicants can elect to apply for a license in one or both of the districts. If an exam is given for both the Grays Harbor and Puget Sound pilotage districts, the applicants shall be graded and evaluated as one applicant pool.

(2) The examination may be taken by all pilot applicants who the board has determined have met the qualifications of WAC 363-116-0751 and who:

(a) Have had an application on file with the board for at least one month prior to the examination. This requirement may be waived by the chairperson of the board upon the showing of good cause. The application shall specify whether the applicant is applying for the Puget Sound pilotage district, the Grays Harbor pilotage district or both.

(b) Have tendered with the application a nonrefundable examination administration fee in such amount as may be set by the board from time to time. The board may, at its discretion, refund all or part of the examination administration fee for a pilot applicant who is unable to sit for the written examination.

(3) The written examination shall be in compliance with RCW 88.16.090 and may consist of questions covering, but not limited to, the following subjects:

(a) Rules of the Road then applicable to the pilotage district for which the pilot applicant is applying and accompanying information set forth in United States government publications on the subject;

(b) Meaning and understanding of the aids to navigation;

(c) Seamanship, including piloting and ship handling, docking and undocking problems, use of ship assist tugs and anchors;

(d) Vessel traffic system regulations;

- (e) Engine and rudder order commands for United States and foreign merchant vessels and United States naval vessels;
 - (f) Operation and use of marine radar and automatic radar plotting aids (ARPA);
 - (g) Ability to calculate currents and tides;
 - (h) Federal laws affecting mariners and pilots including environmental laws;
 - (i) Use of vessel navigational equipment;
 - (j) Duties of a pilot;
 - (k) Relationship between pilot and master;
 - (l) Bridge resource management;
 - (m) United States government public health quarantine regulations;
 - (n) Marine VHF radio usage and phraseology, including bridge-to-bridge communications regulations;
 - (o) Federal navigation safety and security regulations;
 - (p) International distress signals;
 - (q) Nonlocal chart knowledge, including chart symbols and abbreviations as set forth in the latest U.S. Department of Commerce, NOS (National Ocean Survey) Chart No. 1;
 - (r) Maneuvering behavior for different vessel types; and
 - (s) Impact of propulsion and maneuvering machinery on vessel navigation.
- (4) The board may require that the cost of the written examination will be at the expense of the pilot applicant.

The Simulator Evaluation

WAC 363-116-077 provides the following information about the simulator evaluation:

WAC 363-116-077 Simulator evaluation for pilot applicants.

(1) Pilot applicants who pass a written examination and whose scores are among the top twenty (or such other number as may be set by the board) of those taking the written examination (plus any pilot applicants who tie a qualifying score) shall be eligible to take the simulator evaluation set forth in this section.

(2) The simulator evaluation shall take place at a marine simulator facility designated by the board and may be recorded. In this evaluation pilot applicants shall be observed by available board members but shall be evaluated only by those available board members who hold, or have held a minimum U.S. Coast Guard license as master of steam or motor vessels of not more than 1600 gross tons. The board shall also appoint a minimum of two additional evaluators who hold, or have held within ten years of the examination date, a state pilot license issued by Washington or another state. If the evaluation is for applicants to both the Grays Harbor and Puget Sound pilotage district, the applicants shall be evaluated as one applicant pool.

(3) All pilot applicants will be evaluated in writing based on some or all of the following factors:

- (a) Fundamental piloting and ship handling ability;
- (b) Ability to assimilate and prioritize all data necessary to safely maneuver the ship;
- (c) Ability to respond appropriately in routine situations;
- (d) Ability to respond appropriately in emergency or nonroutine situations;
- (e) Ability to communicate well and project the proper bridge presence;
- (f) Understanding of bridge resource management; and
- (g) Understanding and command of the Rules of the Road then applicable to the pilotage district for which the pilot applicant is applying.

(4) The board, in consultation with its designated contracting entity, shall develop this simulator examination, determine the scoring method, the minimum passing or "cut" score, and the relative weight of this score to the whole examination in conformance with a psychometrically validated process.

(5) The board may require that the cost of the simulator evaluation will be at the expense of the pilot applicant.

Objective

The objective of this RFP is as follows:

To allow the BPC to evaluate the qualifications of entities that submit proposals so that the BPC may contract with an examination consultant to provide the BPC with the fixed cost for a written examination and a simulator evaluation developed and conducted in accordance with applicable law, best practices and nationally and locally accepted standards in professional testing, licensing and certification that will permit the BPC to evaluate and rank applicants for entry into the pilot training program as specified in WAC 363-116-078; and to advise potential bidders of the requirements for the written examination and simulator evaluation detailed above.

Scope of Work

The successful proposal will contain a statement of the purpose of the written examination and simulator evaluation. The written examination and simulator evaluation developed and administered must be supported by evidence of validity.

The successful proposal will describe what standards, methods of validity and industrial organizational psychology will support the validity of the written examination and simulator evaluation developed.

The successful proposal will explain how the proposer will develop at a minimum a job analysis that will include a listing of tasks, knowledge, skills and abilities comprising the job domain of pilot trainee and pilot as appropriate and how the proposer will establish an assessment of the relative importance, criticality and frequency of those tasks, and the related knowledge, skills and abilities.

The successful proposal will explain at a minimum how the consultant will evaluate the representativeness of the tasks and knowledge, skills and abilities identified; how the consultant will assess the relative importance, criticality and/or frequency of the tasks identified; how each item on the examination and evaluation will measure those tasks and knowledge, skills and abilities. The consultant will describe the procedures the consultant will use to arrive at the identified tasks.

The successful proposal will explain how the consultant will develop a job map or job blueprint, all relative components to guide item development and the test specifications.

The successful proposal will articulate in detail the method of how the passing or cut score will be determined, how ranking will be established and applied, including the theory upon which the ranking is based and why it will survive administrative and/or court challenges, how the amount of time for the pilot applicants to take the examination and the evaluation will be determined given the required security for the test, and how the consultant will support the relative weight to be given for the written examination and simulator evaluation.

The successful proposal must explain in detail how the written examination and simulator evaluation developed and administered will prevail over legal challenges that the test and system of ranking were not properly validated and/or had a discriminatory impact on pilot applicants.

The scope of work required to achieve the above stated objective includes the following:

- 1 Develop a test map or test blue print including a job analysis.
- 2 Develop and validate a pool of psychometrically sound questions from which questions can be selected for the written examination consistent with WAC 363-116-076. A pool of about 400 questions developed for the 2012 examination may be available for review, updating and possible use in the 2015 examination. Additional questions will be required to supplement this existing pool of questions.
- 3 Develop and validate psychometrically sound scenarios and evaluation criteria for the simulator evaluation consistent with WAC 363-116-077.
- 4 Develop a psychometrically sound examination so that the BPC meets the requirements of WAC 363-116-076 that "Pilot applicants must pass a written examination given and graded by the board or the board's designated contracting entity."
- 5 Recommend a sound basis consistent with professionally and legally accepted standards for licensing examinations and the RFP objectives set out above, for determining a cut score so that the BPC meets the requirements of WAC 363-116-076 that "The board, in consultation with its designated contracting entity, will develop the written examination and set the minimum passing or "cut" score in conformance with a psychometrically validated process."

- 6 Recommend a sound basis consistent with professionally and legally accepted standards for licensing examinations and the RFP Objectives set out above, for determining a cut score so that the BPC meets the requirements of WAC 363-116-077 (4) that “The Board, in consultation with its designated contracting entity, shall develop this simulator examination, determine the scoring method, the minimum passing or “cut” score, and the relative weight of this score to the whole examination in conformance with a psychometrically validated process.”
- 7 Develop rules, procedures and guidelines for the administration and scoring of the written examination. The number of people taking the written examination is undetermined at this time.
- 8 Develop rules, procedures and guidelines for the administration and scoring of the simulator evaluation, including but not limited to: establishment of psychometrically sound procedures for evaluating the simulator evaluation; and development of evaluation tools and a grading/scoring sheet.
- 9 Score the written examination and perform an item analysis to identify flawed items and to obtain examination reliability and related statistics. As provided in WAC 363-116-077 those applicants “...who pass the written examination and whose scores are among the top twenty (or such other number as may be set by the board) ...shall be eligible to take the simulator evaluation...”. It is unknown how many people will take the written examination.
- 10 Provide the BPC with a pass/fail list of applicants and their scores on the written examination ranked from highest to lowest.
- 11 Describe in detail the basis and the rationale and validity evidence for ranking the pilot applicants based on their performance.
- 12 Conduct training sessions for simulator evaluators selected per WAC 363-116-077 (2).
- 13 Assist simulator evaluators with the grading/scoring of the simulator evaluation.
- 14 Provide the BPC with a pass/fail list of applicants and their scores on the simulator evaluation ranked from highest to lowest.
- 15 Describe in detail the basis and rationale and validity evidence for ranking the pilot applicants based on performance of the simulator exercise.
- 16 Combine scores on the written examination and the simulator evaluations, rank successful applicants and deliver the results of this ranking to the BPC in a timely manner, including a detailed description of the basis and rationale for the system of ranking established.
- 17 Prepare a validation report including all records to support the reliability and validity of the written examination and the simulator evaluation.
- 18 Provide for expert witness testimony and expert advice to assist the BPC in responding to any legal challenges related to any and all aspects of the examination preparation, validation, administration or grading. Such service, if needed, will be provided at an hourly rate. See Section 3.4 Cost Proposal.

- 19 Provide for additional professional services relative to any aspect of the above RFP but beyond the Scope of Work defined above for a time period not to exceed three years. Such service, if needed, will be provided at an hourly rate. See Section 3.4 Cost Proposal.
- 20 Provide a detailed list of requirements relative to personnel, materials, facilities, software programs and equipment that the BPC must provide to the contractor and/or must use itself in order for the contractor to carry out the contractor's responsibilities relative to this contract and the costs of those requirements.
- 21 The successful proposal will also identify any software programs that the consultant will use and rely upon to validate and develop the examination.
- 22 If the winning bidder has prepared pilotage examinations in other regions or pilotage districts, guarantee that identical questions asked in other pilotage examinations will not be repeated in the Washington State examination.
- 23 Provide that the administration of the written examination and simulator evaluation comply with the Americans with Disabilities Act (ADA) and Washington Law Against Discrimination, chapter RCW 49.60 as applicable.
- 24 Provide a project schedule indicating when the elements of the work will be completed.
- 25 Provide progress reports on a monthly basis identifying the status of the components of the work that have been completed, or if there are issues, or at other times as may be required by the BPC.
- 26 If the simulator evaluations occur outside the state of Washington, provide the cost of the evaluators' transportation and lodging.

1.3 MINIMUM QUALIFICATIONS

Minimum Qualifications of Consultant Eligibility

This procurement is open to those contractors that satisfy the minimum qualifications stated herein and that are available for work in the State of Washington as follows:

- 1 Are licensed to do business in the State of Washington or provide a commitment that they will be licensed in Washington State within thirty (30) calendar days of being selected as the Apparently Successful Contractor.
- 2 Have proven experience in developing, validating, administering and grading examinations for licensure of maritime deck watch officer personnel and/or pilots. Experience in defending such examinations is desirable.
- 3 Have personnel on the staff or under contract to the Contractor with certifiable experience in psychometric services and industrial organizational psychology.

1.4 PERIOD OF PERFORMANCE

The period of performance of any contract resulting from this RFP is tentatively scheduled to begin immediately upon the signing of the contract by both parties, on March 24, 2015 and to end on March 23, 2016. Amendments extending the period of performance, if any, shall be at the sole discretion of the BPC. The BPC reserves the right to extend the term of the contract if it deems it necessary.

1.5 CURRENT OR FORMER STATE EMPLOYEES

Specific restrictions apply to contracting with current or former state employees pursuant to chapter 42.52 of the Revised Code of Washington. Proposers should familiarize themselves with the requirements prior to submitting a proposal that includes current or former state employees.

1.6 DEFINITIONS

Definitions for the purposes of this RFP include:

Board of Pilotage Commissioners - Those persons described in RCW 88.16.005, 010 and 035. The Board of Pilotage Commissioners of the state of Washington is issuing this RFP.

BPC – The Board of Pilotage Commissioners of the state of Washington.

Apparent Successful Contractor – The consultant selected as the entity to perform the anticipated services, subject to completion of contract negotiations and execution of a written contract.

Consultant – Individual or company interested in the RFP and that may or does submit a proposal in order to attain a contract with the BPC.

Contractor – Individual or company whose proposal has been accepted by the BPC and is awarded a fully executed, written contract.

Local Knowledge – Specialized information about the navigable channels, ports, waterways, and docks which includes local geographic, tidal, bathymetric, legal, regulatory and other information necessary for the safe and efficient movement of vessels throughout Puget Sound.

Pilot - a person who performs the activities and duties as specified in WAC 363-116-120 (1).

Pilot Applicant - A person whom the BPC has determined meets the qualifications set forth in RCW 88.16.080 and WAC 363.116.0751 and 363.116.076(2).

Pilot Trainee - A person who has passed the requisite written examination and simulator evaluation and has been selected and licensed by the BPC to begin training as specified WAC 363-116-078 as preparation for a career as a Washington state licensed pilot.

Puget Sound Pilotage District – The area defined in RCW 88.16.050.

Grays Harbor Pilotage District----The area defined in RCW 88.16.050

Proposal - A formal offer submitted in response to this solicitation.

Proposer - Individual or company that submits a proposal in order to attain a contract with the BPC.

Request for Proposals (RFP) - Formal procurement document in which a service or need is identified but no specific method to achieve it has been chosen. The purpose of an RFP is to permit the consultant community to suggest various approaches to meet the need at a given price.

1.7 AMERICANS WITH DISABILITIES ACT

The BPC complies with the Americans with Disabilities Act (ADA). Consultants may contact the RFP Coordinator to receive this Request for Proposals in Braille or on tape.

2. GENERAL INFORMATION FOR CONSULTANTS

2.1 RFP COORDINATOR

The RFP coordinator is the sole point of contact in the BPC for this procurement. All communication between the Consultant and BPC upon release of this RFP shall be with the RFP coordinator, as follows:

Name	Peggy Larson
E-Mail Address	larsonp@wsdot.wa.gov
Mailing Address	2901 Third Avenue, Suite 500 Seattle, WA 98121
Physical Address for Delivery	same as above
Phone Number	206-515-3904
Fax Number	206-515-3906

Any other communication will be considered unofficial and non-binding on the BPC. Consultants are to rely on written statements issued by the RFP Coordinator. Communication directed to parties other than the RFP Coordinator may result in disqualification of the Consultant.

2.2 ESTIMATED SCHEDULE OF PROCUREMENT ACTIVITIES

Issue Request for Proposals	January 30, 2015
Question period ends	February 13, 2015
Issue last addendum to RFP	February 19, 2015
Proposals due	March 11, 2015
Evaluate proposals	March 12, 2015

Conduct oral interviews with finalists, if required	March 16, 2015
Announce "Apparent Successful Contractor" and send notification via fax or e-mail to unsuccessful proposers	March 16, 2015
Hold debriefing conferences (if requested) Request for Debriefing conference must be received within 3 business days of notification and the Debriefing must be held within three (3) business days of the request for a debriefing.	No later than March 24, 2015
File Protest Protests must be filed within three business days of the Debriefing Conference.	No later than March 27, 2015
Protest Decision A decision regarding the protest must be issued within 5 business days of the receipt of protest. In the event no request for a debriefing conference is received the BPC can immediately begin negotiating and signing the contract	No later than March 31, 2015
Negotiate and sign contract	March 20, 2015, assuming no debrief requested
File contract with DES	March 23, 2015
Begin contract work	March 24, 2015

The BPC reserves the right to revise the above schedule.

The question and answer period provides an opportunity for potential bidders to submit questions and seek clarification about the RFP. All questions and requests for clarification from potential bidders must be received by 5:00 p.m. Pacific Daylight Time on February 13, 2015. Both the questions and the answers thereto will be published on the BPC web site as soon as the answers have been developed but not later than February 19, 2015.

2.3 SUBMISSION OF PROPOSALS

NOTE: *Proposals can be submitted either by hard copy or electronically.*

HARD COPY PROPOSALS:

Consultants are required to submit four (4) copies of their proposal. Two copies must have original signatures and two copies can have photocopied signatures. The proposal, whether mailed or hand delivered, must arrive at the BPC no later than 5:00 p.m. Pacific Daylight Time on March 11, 2015.

The proposal is to be sent to the RFP Coordinator at the address noted in Section 2.1. The envelope should be clearly marked to the attention of the RFP Coordinator.

Consultants mailing proposals should allow normal mail delivery time to ensure timely receipt of their proposals by the RFP Coordinator. Consultants assume the risk for the method of delivery chosen. The BPC assumes no responsibility for delays caused by any delivery service. Proposals may not be transmitted using facsimile transmission.

Late proposals will not be accepted and will be automatically disqualified from further consideration. All proposals and any accompanying documentation become the property of the BPC and will not be returned.

ELECTRONIC PROPOSALS:

The proposal must be **received by the RFP Coordinator** no later than 5:00 p.m. Pacific Daylight Time on March 11, 2015, at the address noted in Section 2.1.

Proposals must be submitted electronically as an attachment to an e-mail to the RFP Coordinator, larsonp@wsdot.wa.gov see Section 2.1.

Attachments to e-mail shall be in Microsoft Word format or PDF. Zipped files cannot be received by the BPC and cannot be used for submission of proposals. The cover submittal letter and the Certifications and Assurances form must have a scanned signature of the individual within the organization authorized to bind the Consultant to the offer. The BPC does not assume responsibility for problems with Consultant's e-mail. If the BPC's email is not working, appropriate allowances will be made.

Proposals may not be transmitted using facsimile transmission.

Consultants should allow sufficient time to ensure timely receipt of the proposal by the RFP Coordinator. Late proposals will not be accepted and will be automatically disqualified from further consideration, unless the BPC's e-mail is found to be at fault. All proposals and any accompanying documentation become the property of the BPC and will not be returned.

2.4 PROPRIETARY INFORMATION/PUBLIC DISCLOSURE

Proposals submitted in response to this competitive procurement shall become the property of the BPC.

All proposals received shall remain confidential until the contract, if any, resulting from this RFP is signed by the Chairman of the BPC and the apparent successful Contractor; thereafter, the proposals shall be deemed public records as defined in RCW 42.56.

Any information in the proposal that the Consultant desires to claim as proprietary and exempt from disclosure under the provisions of RCW 42.56 must be clearly designated.

The page must be identified and the particular exception from disclosure upon which the Consultant is making the claim. Each page claimed to be exempt from disclosure must be clearly identified by the word "Confidential" printed on the lower right hand corner of the page.

The BPC will consider a Consultant's request for exemption from disclosure; however, the BPC will make a decision predicated upon RCW 42.56. Marking the entire proposal exempt from disclosure will not be honored. The Consultant must be reasonable in designating information as confidential. If any information is marked as proprietary in the proposal, such information will not be made available until the affected proposer has been given an opportunity to seek a court injunction against the requested disclosure.

A charge will be made for copying and shipping, as outlined in RCW 42.56. No fee shall be charged for inspection of contract files, but twenty-four (24) hours' notice to the RFP Coordinator is required. All requests for information should be directed to the RFP Coordinator.

2.5 REVISIONS TO THE RFP

In the event it becomes necessary to revise any part of this RFP, addenda will be provided via e-mail to all individuals, who have made the RFP Coordinator aware of their interest. Addenda will also be published on www.pilotage.wa.gov. For this purpose, the published questions and answers and any other pertinent information shall be provided as an addendum to the RFP and will be placed on the website. If you downloaded this RFP from the BPC website located at: www.pilotage.wa.gov you are responsible for sending your name, e-mail address, and telephone number to the RFP Coordinator in order for your organization to receive any RFP addenda.

The BPC also reserves the right to cancel or to reissue the RFP in whole or in part, prior to execution of a contract.

2.6 MINORITY & WOMEN-OWNED BUSINESS PARTICIPATION

In accordance with chapter 39.19 RCW, the state of Washington encourages participation in all of its contracts by firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). Participation may be either on a direct basis in response to this solicitation or on a subcontractor basis. However, no preference will be included in the evaluation of proposals, no minimum level of MWBE participation shall be required as a condition for receiving an award and proposals will not be rejected or considered non-responsive on that basis.

The established annual procurement participation goals for Minority Business Enterprises (MBE) is 10% and for Women Business Enterprises (WBE), 4%, for this type of project. These goals are voluntary. For information on certified firms, consultants may contact OMWBE at 360/753-9693 or <http://www.omwbe.wa.gov>.

2.7 ACCEPTANCE PERIOD

Proposals must provide 60 days for acceptance by BPC from the due date for receipt of proposals.

2.8 RESPONSIVENESS

All proposals will be reviewed by the RFP Coordinator to determine compliance with administrative requirements and instructions specified in this RFP. The Consultant is specifically notified that failure to comply with any part of the RFP may result in rejection of the proposal as non-responsive.

The BPC also reserves the right at its sole discretion to waive minor administrative irregularities.

2.9 MOST FAVORABLE TERMS

The BPC reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted initially on the most favorable terms which the Consultant can propose. There will be no best and final offer procedure. The BPC does reserve the right to contact a Consultant for clarification of its proposal.

The Apparent Successful Contractor should be prepared to accept this RFP for incorporation into a contract resulting from this RFP. Contract negotiations may incorporate some or all of the Consultant's proposal. It is understood that the proposal will become a part of the official procurement file on this matter without obligation to the BPC.

2.10 CONTRACT AND GENERAL TERMS & CONDITIONS

The apparent successful contractor will be expected to enter into a contract which is substantially the same as the sample contract and its general terms and conditions attached as Exhibit C. In no event is a Consultant to submit its own standard contract terms and conditions in response to this solicitation. The Consultant may submit exceptions as allowed in the Certifications and Assurances form, Exhibit D, to this solicitation. All exceptions to the contract terms and conditions must be submitted as an attachment to Exhibit D, Certifications and Assurances form. The BPC will review requested exceptions and accept or reject the same at its sole discretion.

2.11 COSTS TO PROPOSE

The BPC will not be liable for any costs incurred by the Consultant in preparation of a proposal submitted in response to this RFP, in conduct of a presentation, or any other activities related to responding to this RFP.

2.12 NO OBLIGATION TO CONTRACT

This RFP does not obligate the state of Washington or the BPC to contract for services specified herein.

2.13 REJECTION OF PROPOSALS

The BPC reserves the right at its sole discretion to reject any and all proposals received without penalty and not to issue a contract as a result of this RFP.

2.14 COMMITMENT OF FUNDS

The Chairman of the BPC or his delegate is the only individual who may legally commit the BPC to the expenditures of funds for a contract resulting from this RFP. No cost chargeable to the proposed contract may be incurred before receipt of a fully executed contract.

2.15 ELECTRONIC PAYMENT

The state of Washington prefers to utilize electronic payment in its transactions. The successful contractor will be provided a form to complete with the contract to authorize such payment method.

2.16 INSURANCE COVERAGE

The Contractor is to furnish the BPC with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth below.

The Contractor shall, at its own expense, obtain and keep in force insurance coverage which shall be maintained in full force and effect during the term of the contract. The Contractor shall furnish evidence in the form of a Certificate of Insurance that insurance shall be provided, and a copy shall be forwarded to the BPC within fifteen (15) days of the contract effective date.

Liability Insurance

- 1) Commercial General Liability Insurance: Contractor shall maintain commercial general liability (CGL) insurance and, if necessary, commercial umbrella insurance, with a limit of not less than \$1,000,000 per each occurrence. If CGL insurance contains aggregate limits, the General Aggregate limit shall be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit. CGL insurance shall be written on ISO occurrence from CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insureds (cross liability) condition.

Additionally, the Contractor is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.

- 2) **Business Auto Policy:** As applicable, the Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto." Business auto coverage shall be written on ISO form CA 00 01, 1990 or later edition, or substitute liability form providing equivalent coverage.

Employers Liability ("Stop Gap") Insurance

In addition, the Contractor shall buy employers liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

Additional Provisions

Above insurance policy shall include the following provisions:

1. **Additional Insured.** The state of Washington, [BPC name], its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella and property insurance policies. All insurance provided in compliance with this contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.
2. **Cancellation.** The State of Washington, Board of Pilotage Commissioners shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accord with the following specifications. Insurers subject to 48.18 RCW (Admitted and Regulation by the Insurance Commissioner): The insurer shall give the state 45 days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the state shall be given 10 days advance notice of cancellation. Insurers subject to 48.15 RCW (Surplus lines): The state shall be given 20 days advance notice of cancellation. If cancellation is due to non-payment of premium, the state shall be given 10 days advance notice of cancellation.
3. **Identification.** Policy must reference the state's contract number and the BPC name.
4. **Insurance Carrier Rating.** All insurance and bonds should be issued by companies admitted to do business within the state of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by the BPC Risk Manager or the Risk Manager for the state of Washington, before the contract is

accepted or work may begin. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.

5. **Excess Coverage.** By requiring insurance herein, the state does not represent that coverage and limits will be adequate to protect Contractor, and such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to the state in this contract.

Workers' Compensation Coverage

The Contractor will at all times comply with all applicable workers' compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable. The state will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this contract.

2.17 DISABILITY AND DISCRIMINATION LAWS

The administration of the examination and evaluation exercise complies with the Americans with Disabilities Act (ADA) and Washington Law Against Discrimination, chapter RCW 49.60 as applicable.

3. PROPOSAL CONTENTS

NOTE: *Proposals can be submitted either by hard copy or electronically.*

HARD COPY PROPOSALS:

Proposals must be written in English and submitted on eight and one-half by eleven inch (8 1/2" x 11") paper with tabs separating the major sections of the proposal. The four major sections of the proposal are to be submitted in the order noted below:

1. Letter of Submittal, including signed Certifications and Assurances (Exhibit D to this RFP)
2. Technical Proposal
3. Management Proposal; and,
4. Cost Proposal

ELECTRONIC PROPOSALS:

Proposals must be written in English and submitted electronically to the RFP Coordinator in the order noted below:

1. Letter of Submittal, including signed Certifications and Assurances (Exhibit D to this RFP)
2. Technical Proposal

3. Management Proposal; and,
4. Cost Proposal

Proposals must provide information in the same order as presented in this document with the same headings. This will not only be helpful to the evaluators of the proposal, but should assist the Consultant in preparing a thorough response.

Items marked “mandatory” must be included as part of the proposal for the proposal to be considered responsive, however, these items are not scored. Items marked “scored” are those that are awarded points as part of the evaluation conducted by the evaluation team.

3.1 LETTER OF SUBMITTAL

The Letter of Submittal and the attached Certifications and Assurances form (Exhibit D to this RFP) must be signed and dated by a person authorized to legally bind the Consultant to a contractual relationship, e.g., the President or Executive Director if a corporation, the managing partner if a partnership, or the proprietor if a sole proprietorship. Along with introductory remarks, the Letter of Submittal is to include by attachment the following information about the Consultant and any proposed subcontractors:

1. Name, address, principal place of business, telephone number, and fax number/e-mail address of legal entity or individual with whom contract would be written.
2. Name, address, and telephone number of each principal officer (President, Vice President, Treasurer, Chairperson of the Board of Directors, etc.)
3. Legal status of the Consultant (sole proprietorship, partnership, corporation, etc.) and the year the entity was organized to do business as the entity now substantially exists.
4. Federal Employer Tax Identification number or Social Security number and the Washington Uniform Business Identification (UBI) number issued by the state of Washington Department of Revenue. If the Consultant does not have a UBI number, the Consultant must state that it is capable of becoming licensed and will become licensed in Washington within thirty (30) calendar days of being selected as the Apparently Successful Contractor.
5. Location of the facility from which the Consultant would operate.
6. Identify any state employees or former state employees employed or on the firm’s governing board as of the date of the proposal. Include their position and responsibilities within the Consultant’s organization. If following a review of this information, it is determined by the BPC that a conflict of interest exists, the Consultant may be disqualified from further consideration for the award of a contract.

3.2 TECHNICAL PROPOSAL

The Technical Proposal must contain a comprehensive description of services including the following elements:

- A. Project Approach/Methodology (SCORED)** Include a complete description of the Consultant's proposed approach and methodology for the project. This section should convey the Consultant understands the proposed project.
- B. Work Plan (SCORED)** Include all project requirements and the proposed tasks, services, activities, etc. necessary to accomplish the scope of the project defined in this RFP. This section of the technical proposal must contain sufficient detail to convey to members of the evaluation team the Consultant's knowledge of the subjects and skills necessary to successfully complete the project. Include any required involvement of BPC staff and include provisions for the use of Commissioners or others to perform the simulator evaluations in accordance with WAC 363-116-077 (2) which states "The simulator evaluation shall take place at a marine simulator facility designated by the board and may be recorded. In this evaluation pilot applicants shall be observed by available board members but shall be evaluated only by those available board members who hold, or have held a minimum U.S. Coast Guard license as master of steam or motor vessels of not more than 1600 gross tons. The board shall also appoint a minimum of two additional evaluators who hold, or have held within ten years of the examination date, a state pilot license issued by Washington or another state. If the evaluation is for applicants to both the Grays Harbor and Puget Sound pilotage district, the applicants shall be evaluated as one applicant pool."
- The Consultant may also present any creative approaches that might be appropriate and may provide any pertinent supporting documentation.
- C. Project Schedule (SCORED)** Include a project schedule indicating when the elements of the work will be completed. Project schedule must ensure that any deliverables requested are met.
- D. Outcomes and Performance Measurement** Describe the impacts/outcomes the Consultant proposes to achieve as a result of the delivery of these services including how these outcomes would be monitored, measured and reported to the BPC.
- E. Risk** The Consultant must identify potential risks that are considered significant to the success of the project. Include how the Consultant would propose to effectively monitor and manage these risks, including reporting of risks to the BPC'S contract manager.
- F. Deliverables (SCORED)** Fully describe deliverables to be submitted under the proposed contract. Deliverables must support the requirements set forth in Section 1.2, Objectives and Scope of Work.

3.3 MANAGEMENT PROPOSAL

A. Project Management (SCORED)

1. Project Team Structure/Internal Controls - Provide a description of the proposed project team structure and internal controls to be used during the course of the project, including any subcontractors. Provide an organizational chart of your firm indicating lines of authority for personnel involved in performance of this potential contract and relationships of this staff to other programs or functions of the firm. This chart must also show lines of authority to the next senior level of management. Include who within the firm will have prime responsibility and final authority for the work.
2. Staff Qualifications/Experience - Identify staff, including subcontractors, who will be assigned to the potential contract, indicating the responsibilities and qualifications of such personnel, and include the amount of time each will be assigned to the project. Provide resumes' for the named staff, which include information on the individual's particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. The Consultant must commit that staff identified in its proposal will actually perform the assigned work. Any staff substitution must have the prior approval of the BPC.

B. Experience of the Consultant (SCORED)

1. Indicate the experience the Consultant and any subcontractors have in the following areas:
 - a. developing, creating, administering and validating professional licensing examinations, including what types of professional licensing examinations, naming the licensing entities and how many professional licensing examinations were so developed, created, administered and validated by the consultant;
 - b. developing, creating, administering and validating governmental maritime pilotage examinations, including for what maritime Pilotage districts and how many governmental maritime Pilotage examinations were so developed, created, administered and validated by the consultant;
 - c. developing, creating and validating professional maritime examinations, including what types of professional examinations, the names of the entities and how many professional maritime examinations were so developed, created, administered and validated by the consultant;
 - d. developing, creating and validating employment related examinations, including what types of employment examinations, the names of the employers and how many employment related examinations were so developed, created, administered and validated by the consultant;

- e. testifying as an expert in court or in an administrative setting or hearing and providing expert testimony about validation of examinations identifying whether the court was state or federal, and the type of administrative proceeding, including for all testimony the state in which the hearing or court action or activity took place.
2. Indicate if any of the examinations developed by the Consultant and any subcontractors were challenged in any way in a court or administrative procedure and identify the aspects of the examination that were challenged, the legal issues, the outcome of the dispute or challenge including the court or adjudicator's decision on the disputed issues, the name of the entity or entities whose examination was challenged, the timeframe of the challenge, the name of the court or administrative venue and the impact on the examination that was challenged.
3. Indicate other relevant experience that indicates the qualifications of the contract.
4. Include a list of contracts the Consultant has had during the last five years that relate to the Consultant's ability to perform the services needed under this RFP. List contract reference numbers, contract period of performance, contact persons, telephone numbers, and fax numbers/e-mail addresses

C. Related Information (MANDATORY)

1. If the Consultant or any subcontractor contracted with the state of Washington during the past 24 months, indicate the name of testate agency, board, commission or entity, the contract number and project description and/or other information available to identify the contract.
2. If the Consultant's staff or subcontractor's staff was an employee of the state of Washington during the past 24 months, or is currently a Washington State employee, identify the individual by name, the state agency, board, commission or entity previously or currently employed by, job title or position held and separation date.
3. If the Consultant has had a contract terminated for default in the last five years, describe such incident. Termination for default is defined as notice to stop performance due to the Consultant's non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and such litigation determined that the Proposer was in default.
4. Submit full details of the terms for default including the other party's name, address, and phone number. Present the Consultant's position on the matter. The BPC will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. If no such termination for default has been experienced by the Consultant in the past five years, so indicate.

D. References (MANDATORY)

List names, addresses, telephone numbers, and fax numbers/e-mail addresses of three (3) business references for the Consultant and three (3) business references for the lead staff person for whom work has been accomplished and briefly describe the type of service provided. Do not include current BPC staff as references. The Consultant and the lead staff person must grant permission to the BPC to contact the references and others who may have pertinent information regarding the Consultant's and the lead staff person's qualifications and experience to perform the services required by this RFP. The BPC may evaluate references at the BPC'S discretion.

E. OMWBE Certification (OPTIONAL AND NOT SCORED)

Include proof of certification issued by the Washington State Office of Minority and Women's Business Enterprises (OMWBE) if certified minority-owned firm and/or women-owned firm(s) will be participating on this project. For information: <http://www.omwbe.wa.gov>.

3.4 COST PROPOSAL (SCORED)

The evaluation process is designed to award this procurement not necessarily to the Consultant of least cost, but rather to the Consultant whose proposal best meets the requirements of this RFP. However, Consultants are encouraged to submit proposals which are consistent with state government efforts to conserve state resources.

The cost proposal should contain the following information as applicable:

1. Maximum cost for the entire project broken down by activities, tasks, outcomes, phases or deliverables as appropriate to the project.
2. Cost or pricing details.
3. Estimated periodic billing to the agency based on the cost of the deliverable items.
4. Any subcontract costs.
5. Travel, lodging and other direct expenses.
6. Guarantee hourly rate at which the examination consultant will provide for expert witness testimony and expert advice to assist the BPC in responding to any legal challenges related to any and all aspects of the examination preparation, validation, administration or grading.

7. Guarantee an hourly rate at which additional professional services relative to any aspect of the above RFP but beyond the Scope of Work defined above will be provided for a time period not to exceed two years.
8. Cost of transportation and lodging for BPC simulator evaluators if simulator evaluations are held outside the state of Washington.

A. Identification of Costs (SCORED)

Identify all costs in U.S. dollars including expenses to be charged for performing the services necessary to accomplish the objectives of the contract. The Consultant is to submit a fully detailed budget including staff costs and any expenses necessary to accomplish the tasks and to produce the deliverables under the contract. Consultants are required to collect and pay Washington state sales and use taxes, as applicable.

Costs for subcontractors are to be broken out separately. Please note if any subcontractors are certified by the Office of Minority and Women's Business Enterprises.

It should be noted that there are requirements that certain members of the Board participate in certain elements of the simulator evaluation process and past practices has been that active or retired pilots be engaged by the Board to assist in examination development. Personnel hired directly by the examination consultant (either employees or independent contractors engaged by the consultant) shall be paid by the consultant and those costs included in the cost proposal submitted by the proposer. Personnel engaged by the Board (such as Board members, retired pilots or active state licensed pilots who act as evaluators or consultants to the Board, etc.) shall be paid by the Board and their expenses should not be included in the consultant's bid price.

B. Computation

The score for the cost proposal will be computed by dividing the lowest cost bid received by the Consultant's total cost. Then the resultant number will be multiplied by the maximum possible points for the cost section.

4. EVALUATION AND CONTRACT AWARD

4.1 EVALUATION PROCEDURE

Responsive proposals will be evaluated strictly in accordance with the requirements stated in this solicitation and any addenda issued. The evaluation of proposals shall be accomplished by an evaluation team(s), to be designated by the BPC, which will determine the ranking of the proposals.

BPC, at its sole discretion, may elect to select the top-scoring firms as finalists for an oral presentation.

The RFP Coordinator may contact the Consultant for clarification of any portion of the Consultant's proposal.

4.2 EVALUATION WEIGHTING AND SCORING

The following weighting and points will be assigned to the proposal for evaluation purposes:

Technical Proposal 35 (Thirty-five) % 35 Points Total _____points

Project Approach/Methodology.....15 Points

Quality of Work Plan.....5 Points

Project Schedule.....5 Points

Project Deliverables.....10 Points

Management Proposal 35 (Thirty-five) % 35 Points Total _____points

Project Team Structure and Internal Controls.....8 Points

Staff Qualifications/Experience.....7 Points

Experience of the Consultant.....20 Points

Cost Proposal 30 (Thirty) % 30 Points Total _____points

NOTE: 3.4 B .above says: "The score for the cost proposal will be computed by dividing the lowest cost bid received by the Consultant's total cost. Then the resultant number will be multiplied by the maximum possible points for the cost section."

Total Points (100 possible) _____points

BPC reserves the right to award the contract to the Consultant whose proposal is deemed to be in the best interest of the BPC and the state of Washington.

4.3 ORAL PRESENTATIONS MAY BE REQUIRED

The BPC may after evaluating the written proposals elect to schedule oral presentations of the finalists. Should oral presentations become necessary, the BPC will contact the top-scoring firm(s) from the written evaluation to schedule a date, time and location. Commitments made by the Consultant at the oral interview, if any, will be considered binding.

The scores from the written evaluation and the oral presentation combined together will determine the apparent successful contractor.

4.4 NOTIFICATION TO PROPOSERS

The BPC will notify the Apparently Successful Contractor of its selection in writing upon completion of the evaluation process. Individuals or firms whose proposals were not selected for further negotiation or award will be notified separately by e-mail or facsimile.

4.5 DEBRIEFING OF UNSUCCESSFUL PROPOSERS

Any Consultant who has submitted a proposal and been notified that they were not selected for contract award may request a debriefing. The request for a debriefing conference must be received by the RFP Coordinator within three (3) business days after the Unsuccessful Consultant Notification is e-mailed or faxed to the Consultant. Debriefing requests must be received by the RFP Coordinator no later than 5:00 PM, local time, at the address listed in Section 2.1 above on the third business day following the transmittal of the Unsuccessful Consultant Notification. The debriefing must be held within three (3) business days of the request.

Discussion at the debriefing conference will be limited to the following:

- Evaluation and scoring of the firm's proposal;
- Critique of the proposal based on the evaluation;
- Review of proposer's final score in comparison with other final scores without identifying the other firms.

Comparisons between proposals or evaluations of the other proposals will not be allowed. Debriefing conferences may be conducted in person or on the telephone and will be scheduled for a maximum of one hour.

4.6 PROTEST PROCEDURE

Protests may be made only by Consultants who submitted a response to this solicitation document and who have participated in a debriefing conference. Upon completing the debriefing conference, the Consultant is allowed three (3) business days to file a protest of the acquisition with the RFP Coordinator. Protests must be received by the RFP Coordinator no later than 4:30 PM, local time, at the address shown in Section 2.1 above on the third business day following the debriefing. Protests may be submitted by e-mail or facsimile, but must then be followed by the document with an original signature.

Consultants protesting this procurement shall follow the procedures described below. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Consultants under this procurement.

All protests must be in writing, addressed to the RFP Coordinator, and signed by the protesting party or an authorized Agent. The protest must state the RFP number, the grounds for the protest with specific facts and complete statements of the action(s) being protested. A description of the relief or corrective action being requested should also be included.

Only protests stipulating an issue of fact concerning the following subjects shall be considered:

- A matter of bias, discrimination or conflict of interest on the part of an evaluator;

- Errors in computing the score;
- Non-compliance with procedures described in the procurement document or BPC policy.

Protests not based on procedural matters will not be considered. Protests will be rejected as without merit if they address issues such as: 1) an evaluator's professional judgment on the quality of a proposal, or 2) BPC'S assessment of its own and/or other agencies needs or requirements.

Upon receipt of a protest, a protest review will be held by the BPC. The BPC Chairman or an employee delegated by the Director who was not involved in the procurement will consider the record and all available facts and issue a decision within five (5) business days of receipt of the protest. If additional time is required, the protesting party will be notified of the delay.

In the event a protest may affect the interest of another Consultant that also submitted a proposal, such Consultant will be given an opportunity to submit its views and any relevant information on the protest to the RFP Coordinator.

The final determination of the protest shall:

- Find the protest lacking in merit and uphold the BPC's action; or
- Find only technical or harmless errors in the BPC's acquisition process and determine the BPC to be in substantial compliance and reject the protest; or
- Find merit in the protest and provide the BPC options which may include:
 - Correct the errors and re-evaluate all proposals, and/or
 - Reissue the solicitation document and begin a new process, or
 - Make other findings and determine other courses of action as appropriate.

If the BPC determines that the protest is without merit, the BPC will enter into a contract with the apparently successful contractor. If the protest is determined to have merit, one of the alternatives noted in the preceding paragraph will be taken.

5. RFP EXHIBITS

Exhibit A Chapter 88.16 RCW

Exhibit B Chapter 363-116 WAC

Exhibit C Personal Service Contract Format including General Terms and Conditions (GT&Cs)

Exhibit D Certifications and Assurances

EXHIBIT A

Chapter 88.16 RCW Pilotage Act

88.16.005

Legislative declaration of policy and intent.

The legislature finds and declares that it is the policy of the state of Washington to prevent the loss of human lives, loss of property and vessels, and to protect the marine environment of the state of Washington through the sound application of compulsory pilotage provisions in certain of the state waters.

The legislature further finds and declares that it is a policy of the state of Washington to have pilots experienced in the handling of vessels aboard vessels in certain of the state waters with prescribed qualifications and licenses issued by the state.

It is the intent of the legislature to ensure against the loss of lives, loss or damage to property and vessels, and to protect the marine environment through the establishment of a board of pilotage commissioners representing the interests of the people of the state of Washington.

It is the further intent of the legislature not to place in jeopardy Washington's position as an able competitor for waterborne commerce from other ports and nations of the world, but rather to continue to develop and encourage such commerce.

[1977 ex.s. c 337 § 1.]

Notes:

Severability -- 1977 ex.s. c 337: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 337 § 18.]

88.16.010

Board of pilotage commissioners — Created — Chairperson — Members — Terms — Qualifications — Vacancies — Quorum.

(1) The board of pilotage commissioners of the state of Washington is hereby created and shall consist of the assistant secretary of marine operations of the department of transportation of the state of Washington, or the assistant secretary's designee who shall be an employee of the marine division, who shall be chairperson, the director of the department of ecology, or the director's designee, and seven members appointed by the governor and confirmed by the senate. Each of the appointed commissioners shall be appointed for a term of four years from the date of the member's commission. No person shall be eligible for appointment to the board unless that person is at the time of appointment eighteen years of age or over and a citizen of the United States and of the state of Washington. Two of the appointed commissioners shall be pilots licensed under this chapter and actively engaged in piloting upon the waters covered by this chapter for at least three years immediately preceding the time of appointment and while serving on the board. One pilot shall be from the Puget Sound pilotage district and the other pilot shall be from either the Grays Harbor pilotage district or the Puget Sound pilotage district. Two of the appointed commissioners shall be actively engaged in the ownership, operation, or management of deep sea cargo and/or passenger carrying vessels for at least three years immediately preceding the time of appointment and while serving on the board. One of the shipping commissioners shall be a representative of American and one of foreign shipping. One of the commissioners shall be a representative from a recognized environmental organization concerned with marine waters. The remaining commissioners shall be persons interested in and concerned with pilotage, maritime safety, and marine affairs, with broad experience related to the maritime industry exclusive of experience as either a state licensed pilot or as a shipping representative.

(2) Any vacancy in an appointed position on the board shall be filled by the governor for the remainder of the unfilled term, subject to confirmation by the senate.

(3) Five members of the board shall constitute a quorum. At least one pilot, one shipping representative, and one public member must be present at every meeting. All commissioners and the chairperson shall have a vote.

[2008 c 128 § 1; 2003 c 58 § 1; 2001 c 36 § 4; 1991 c 200 § 1001; 1987 c 485 § 1; 1979 ex.s. c 207 § 1; 1977 ex.s. c 337 § 2; 1977 ex.s. c 151 § 73; 1971 ex.s. c 292 § 58; 1935 c 18 § 1; RRS § 9871-1. Prior: 1888 p 175 § 1.]

Notes:

Effective dates -- Severability -- 1991 c 200: See RCW [90.56.901](#) and [90.56.904](#).

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

Federal requirements -- Severability -- 1977 ex.s. c 151: See RCW [47.98.070](#) and [47.98.080](#).

Severability -- 1971 ex.s. c 292: See note following RCW [26.28.010](#).

88.16.020

Board of pilotage commissioners — Office — Compensation and travel expenses of members — Employment of personnel.

The department of transportation of the state of Washington shall be the office of the board, and all records shall be kept in the office of the department. Each pilotage commissioner shall be compensated in accordance with RCW [43.03.240](#) and shall be reimbursed for travel expenses in accordance with RCW [43.03.050](#) and [43.03.060](#), to be paid out of the pilotage account on vouchers approved by the chairperson of the board: PROVIDED, That the sums received under this section shall not be considered compensation earnable as defined pursuant to RCW [41.40.010](#)(8).

The board is authorized to employ personnel, pursuant to chapter [41.06](#) RCW, as necessary to conduct the business of the board.

[1984 c 287 § 111; 1977 ex.s. c 337 § 3; 1977 ex.s. c 151 § 74; 1975-'76 2nd ex.s. c 34 § 178; 1967 c 15 § 1; 1941 c 184 § 1; 1935 c 18 § 2; RRS § 9871-2.]

Notes:

Legislative findings -- Severability -- Effective date -- 1984 c 287: See notes following RCW [43.03.220](#).

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

Federal requirements -- Severability -- 1977 ex.s. c 151: See RCW [47.98.070](#) and [47.98.080](#).

Effective date -- Severability -- 1975-'76 2nd ex.s. c 34: See notes following RCW [2.08.115](#).

88.16.035

Board of pilotage commissioners — Powers and duties.

(1) The board of pilotage commissioners shall:

(a) Adopt rules, pursuant to chapter [34.05](#) RCW, necessary for the enforcement and administration of this chapter;

(b)(i) Issue training licenses and pilot licenses to pilot applicants meeting the qualifications provided for in RCW [88.16.090](#) and such additional qualifications as may be determined by the board;

(ii) Establish a comprehensive training program to assist in the training and evaluation of pilot applicants before final licensing; and

(iii) Establish additional training requirements, including a program of continuing education developed after consultation with pilot organizations, including those located within the state of Washington, as required to maintain a competent pilotage service;

(c) Maintain a register of pilots, records of pilot accidents, and other history pertinent to pilotage;

(d) Determine from time to time the number of pilots necessary to be licensed in each district of the state to optimize the operation of a safe, fully regulated, efficient, and competent pilotage service in each district;

(e) Annually fix the pilotage tariffs for pilotage services provided under this chapter: PROVIDED, That the board may fix extra compensation for extra services to vessels in distress, for awaiting vessels, for all vessels in direct transit to or from a Canadian port where Puget Sound pilotage is required for a portion of the voyage, or for being carried to sea on vessels against the will of the pilot, and for such other services as may be determined by the board: PROVIDED FURTHER, That as an element of the Puget Sound pilotage district tariff, the board may consider pilot retirement plan expenses incurred in the prior year in either pilotage district. However, under no circumstances shall the state be obligated to fund or pay for any portion of retirement payments for pilots or retired pilots;

(f) File annually with the governor and the chairs of the transportation committees of the senate and house of representatives a report which includes, but is not limited to, the following: The number, names, ages, pilot license number, training license number, and years of service as a Washington licensed pilot of any person licensed by the board as a Washington state pilot or trainee; the names, employment, and other information of the members of the board; the total number of pilotage assignments by pilotage district, including information concerning the various types and sizes of vessels and the total annual tonnage; the annual earnings or stipends of individual pilots and trainees before and after deduction for expenses of pilot organizations, including extra compensation as a separate category; the annual expenses of private pilot associations, including personnel employed and capital expenditures; the status of pilotage tariffs, extra compensation, and travel; the retirement contributions paid to pilots and the disposition thereof; the number of groundings, marine occurrences, or other incidents which are reported to or investigated by the board, and which are determined to be accidents, as defined by the board, including the vessel name, location of incident, pilot's or trainee's name, and disposition of the case together with information received before the board acted from all persons concerned, including the United States coast guard; the names, qualifications, time scheduled for examinations, and the district of persons desiring to apply for Washington state pilotage licenses; summaries of dispatch records, quarterly reports from pilots, and the bylaws and operating rules of pilotage organizations; the names, sizes in deadweight tons, surcharges, if any, port of call, name of the pilot or trainee, and names and horsepower of tug boats for any and all oil tankers subject to the provisions of RCW [88.16.190](#) together with the names of any and all vessels for which the United States coast guard requires special handling pursuant to their authority under the Ports and Waterways Safety Act of 1972; the expenses of the board; and any and all other information which the board deems appropriate to include;

(g) Make available information that includes the pilotage act and other statutes of Washington state and the federal government that affect pilotage, including the rules of the board, together with such additional information as may be informative for pilots, agents, owners, operators, and masters;

(h) Appoint advisory committees and employ marine experts as necessary to carry out its duties under this chapter;

(i) Provide for the maintenance of efficient and competent pilotage service on all waters covered by this chapter; and do such other things as are reasonable, necessary, and expedient to insure proper and safe pilotage upon the waters covered by this chapter and facilitate the efficient administration of this chapter.

(2) The board may pay stipends to pilot trainees under subsection (1)(b) of this section.

[2009 c 496 § 1; 2008 c 128 § 2; 2006 c 53 § 1; 2005 c 26 § 1; 1987 c 264 § 1; 1977 ex.s. c 337 § 4.]

Notes:

Retroactive application -- 2006 c 53: "This act is intended to clarify the authority of the board of pilotage commissioners to pay stipends to pilot trainees that have indicated they wish to receive a stipend during the board of pilotage commissioners' training program. Section 1 of this act is remedial and curative in nature and applies retroactively to December 1, 2005. Specifically, the board may pay stipends, pursuant to the rules established by the board, to any pilot trainees that qualified for the stipends on, or after, December 1, 2005." [2006 c 53 § 3.]

Effective date -- 2006 c 53: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 14, 2006]." [2006 c 53 § 4.]

Effective date -- 2005 c 26: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 12, 2005]." [2005 c 26 § 4.]

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.040

Oaths and subpoenas — Compelling attendance of witnesses — Contempt.

Any member of the board shall have power to administer oaths in any matter before the board for consideration or inquiry and to issue subpoenas requiring witnesses to appear before the board. Such subpoenas shall be signed by a member of the board and issued in the name of the state of Washington and be served and returned, and mileage and witness fees shall be paid in like manner and effect as in a civil action. A witness wilfully disobeying such subpoena served upon the witness shall be proceeded against upon complaint of the board to the attorney general or the prosecuting attorney of the county where the attendance of the witness was demanded as for a contempt of the authority of the superior court of said county.

[1987 c 485 § 2; 1967 c 15 § 9; 1935 c 18 § 14; RRS § 9871-14.]

88.16.050

Pilotage districts and waters affected.

This chapter shall apply to the pilotage districts of this state as defined in this section.

(1) "Puget Sound pilotage district", whenever used in this chapter, shall be construed to mean and include all the waters of the state of Washington inside the international boundary line between the state of Washington, the United States and the province of British Columbia, Canada and east of one hundred twenty-three degrees twenty-four minutes west longitude.

(2) "Grays Harbor pilotage district" shall include all inland waters, channels, waterways, and navigable tributaries within Grays Harbor and Willapa Harbor. The boundary line between Grays Harbor and Willapa Harbor and the high seas shall be defined by the board.

[1987 c 485 § 3; 1979 ex.s. c 207 § 2; 1977 ex.s. c 337 § 5; 1971 ex.s. c 297 § 2; 1967 c 15 § 2; 1935 c 18 § 3; RRS § 9871-3.]

Notes:

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.061

Pilotage account.

The account in the general fund designated in *RCW [43.79.330](#)(17) as the "Puget Sound pilotage account" is hereby redesignated as the "pilotage account".

The pilotage account is hereby redesignated as a nonappropriated account, and is therefore created in the custody of the state treasurer. All receipts designated, credited, or transferred to the pilotage account must be deposited into the account. Expenditures from the account may be used only for the purposes of the board of pilotage commissioners as prescribed under this chapter. Only the board or the board's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter [43.88](#) RCW, but an appropriation is not required for expenditures.

[2008 c 128 § 17; 1967 c 15 § 11.]

Notes:

*Reviser's note: RCW [43.79.330](#)(17) was renumbered in 1979, 1980, and 1981, and was subsequently deleted by 2008 c 128 § 18, effective July 1, 2009.

Effective date -- 2008 c 128 §§ 17-20: "Sections 17 through 20 of this act take effect July 1, 2009." [2008 c 128 § 21.]

88.16.070

Vessels exempted and included under chapter — Fee — Penalty.

Every vessel not exempt under this section that operates in the waters of the Puget Sound pilotage district or Grays Harbor pilotage district is subject to compulsory pilotage under this chapter.

(1) A United States vessel on a voyage in which it is operating exclusively on its coastwise endorsement, its fishery endorsement (including catching and processing its own catch outside United States waters and economic zone for delivery in the United States), and/or its recreational (or pleasure) endorsement, and all United States and Canadian vessels engaged exclusively in the coasting trade on the west coast of the continental United States (including Alaska) and/or British Columbia shall be exempt from the provisions of this chapter unless a pilot licensed under this chapter be actually employed, in which case the pilotage rates provided for in this chapter shall apply.

(2) The board may, upon the written petition of any interested party, and upon notice and opportunity for hearing, grant an exemption from the provisions of this chapter to any vessel that the board finds is (a) a small passenger vessel that is not more than five hundred gross tons (international), does not exceed two hundred feet in overall length, and is operated exclusively in the waters of the Puget Sound pilotage district and lower British Columbia, or (b) a yacht that is not more than seven hundred fifty gross tons (international) and does not exceed two hundred feet in overall length. Such an exemption shall not be detrimental to the public interest in regard to safe operation preventing loss of human lives, loss of property, and protecting the marine environment of the state of Washington. Such petition shall set out the general description of the vessel, the contemplated use of same, the proposed area of operation, and the name and address of the vessel's owner. The board shall annually, or at any other time when in the public interest, review any exemptions granted to this specified class of small vessels to insure that each exempted vessel remains in compliance with the original exemption. The board shall have the authority to revoke such exemption where there is not continued compliance with the requirements for exemption. The board shall maintain a file which shall include all petitions for exemption, a roster of vessels granted exemption, and the board's written decisions which shall set forth the findings for grants of exemption. Each applicant for exemption or annual renewal shall pay a fee, payable to the pilotage account. Fees for initial applications and for renewals shall be established by rule, and shall not exceed one thousand five hundred dollars. The board shall report annually to the legislature on such exemptions.

(3) Every vessel not exempt under subsection (1) or (2) of this section shall, while navigating the Puget Sound and Grays Harbor pilotage districts, employ a pilot licensed under the provisions of this chapter and shall be liable for and pay pilotage rates in accordance with the pilotage rates herein established or which may hereafter be established under the provisions of this chapter: PROVIDED, That any vessel inbound to or outbound from Canadian ports is exempt from the provisions of this section, if said vessel actually employs a pilot licensed by the Pacific pilotage authority (the pilot licensing authority for the western district of Canada), and if it is communicating with the vessel traffic system and has appropriate navigational charts, and if said vessel uses only those waters east of the international boundary line which are west of a line which begins at the southwestern edge of Point Roberts then to Alden Point (Patos Island), then to Skipjack Island light, then to Turn Point (Stuart Island), then to Kellet Bluff (Henry Island), then to Lime Kiln (San Juan Island) then to the intersection of one hundred twenty-three degrees seven minutes west longitude and forty-eight degrees twenty-five minutes north latitude then to the international boundary. The board shall correspond with the Pacific pilotage authority from time to time to ensure the provisions of this section are enforced. If any exempted vessel does not comply with these provisions it shall be deemed to be in violation of this section and subject to the penalties provided in RCW [88.16.150](#) as now or hereafter amended and liable to pilotage fees as determined by the board. The board shall investigate any accident on the waters covered by this chapter involving a Canadian pilot and shall include the results in its annual report.

[2012 c 81 § 1; 2008 c 128 § 3; 1996 c 144 § 1; 1995 c 174 § 1; 1987 c 194 § 2; 1977 ex.s. c 337 § 6; 1971 ex.s. c 297 § 3; 1967 c 15 § 3; 1935 c 18 § 4; RRS § 9871-4.]

Notes:

Intent -- 1987 c 194: "The legislature intends to provide a limited exemption from the provisions of this chapter for a specified class of small vessels registered as passenger vessels or yachts. It is not the intent of the legislature that such an exemption shall be a precedent for future exemptions of other classes of vessels from the provisions of this chapter." [1987 c 194 § 1.]

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.090

Pilot and pilot trainee licenses — Qualifications — Duration — Annual fee — Examinations and evaluations — Training program and license — Penalty — Reporting requirements.

(1) A person may pilot any vessel subject to this chapter on waters covered by this chapter only if licensed to pilot such vessels on such waters under this chapter.

(2)(a) A person is eligible to be licensed as a pilot or a pilot trainee if the person:

(i) Is a citizen of the United States;

(ii) Is over the age of twenty-five years and under the age of seventy years;

(iii)(A) Holds at the time of application, as a minimum, a United States government license as master of steam or motor vessels of not more than one thousand six hundred gross register tons (three thousand international tonnage convention tons) upon oceans, near coastal waters, or inland waters; or the then most equivalent federal license as determined by the board; any such license to have been held by the applicant for a period of at least two years before application;

(B) Holds at the time of licensure as a pilot, after successful completion of the board-required training program, a first class United States endorsement without restrictions on the United States government license for the pilotage district in which the pilot applicant desires to be licensed; however, all applicants for a pilot examination scheduled to be given before July 1, 2008, must have the United States pilotage endorsement at the time of application; and

(C) The board may require that applicants and pilots have federal licenses and endorsements as it deems appropriate; and

(iv) Successfully completes a board-specified training program.

(b) In addition to the requirements of (a) of this subsection, a pilot applicant must meet such other qualifications as may be required by the board.

(c) A person applying for a license under this section shall not have been convicted of an offense involving drugs or the personal consumption of alcohol in the twelve months prior to the date of application. This restriction does not apply to license renewals under this section.

(3) The board may establish such other training license and pilot license requirements as it deems appropriate.

(4) Pilot applicants shall be evaluated and may be ranked for entry into a board-specified training program in a manner specified by the board based on their performance on a written examination or examinations established by the board, performance on other evaluation exercises as may be required by the board, and other criteria or qualifications as may be set by the board.

When the board determines that the demand for pilots requires entry of an applicant into the training program it shall issue a training license to that applicant, but under no circumstances may an applicant be issued a training license more than four years after taking the written entry examination. The training license authorizes the trainee to do such actions as are specified in the training program.

After the completion of the training program the board shall evaluate the trainee's performance and knowledge. The board, as it deems appropriate, may then issue a pilot license, delay the issuance of the pilot license, deny the issuance of the pilot license, or require further training and evaluation.

(5) The board may (a) appoint a special independent committee or (b) contract with private or governmental entities knowledgeable and experienced in the development, administration, and grading of licensing examinations or simulator evaluations for marine pilots, or (c) do both. Active, licensed pilots designated by the board may participate in the development, administration, and grading of examinations and other evaluation exercises. If the board does appoint a special examination or evaluation development committee, it is authorized to pay the members of the committee the same compensation and travel expenses as received by members of the board. Any person who willfully gives advance knowledge of information contained on a pilot examination or other evaluation exercise is guilty of a gross misdemeanor.

(6) This subsection applies to the review of a pilot applicant's written examinations and evaluation exercises to qualify to be placed on a waiting list to become a pilot trainee. Failure to comply with the process set forth in this subsection renders the results of the pilot applicant's written examinations and evaluation exercises final. A pilot applicant may seek board review, administrative review, and judicial review of the results of the written examinations and evaluation exercises in the following manner:

(a) A pilot applicant who seeks a review of the results of his or her written examinations or evaluation exercises must request from the board-appointed or board-designated examination committee an administrative review of the results of his or her written examinations or evaluation exercises as set forth by board rule.

(b) The determination of the examination committee's review of a pilot applicant's examination results becomes final after thirty days from the date of service of written notification of the committee's determination unless a full adjudicative hearing before an administrative law judge has been requested by the pilot applicant before the thirty-day period has expired, as set forth by board rule.

(c) When a full adjudicative hearing has been requested by the pilot applicant, the board shall request the appointment of an administrative law judge under chapter [34.12](#) RCW who has sufficient experience and familiarity with pilotage matters to be able to conduct a fair and impartial hearing. The hearing shall be governed by chapter [34.05](#) RCW. The administrative law judge shall issue an initial order.

(d) The initial order of the administrative law judge is final unless within thirty days of the date of service of the initial order the board or pilot applicant requests review of the initial order under chapter [34.05](#) RCW.

(e) The board may appoint a person to review the initial order and to prepare and enter a final order as governed by chapter [34.05](#) RCW and as set forth by board rule. The person appointed by the board under this subsection (6)(e) is called the board reviewing officer.

(7) Pilots are licensed under this section for a term of five years from and after the date of the issuance of their respective state licenses. Licenses must thereafter be renewed as a matter of course, unless the board withholds the license for good cause. Each pilot shall pay to the state treasurer an annual license fee in an amount set by the board by rule. Pursuant to RCW [43.135.055](#), the fees established under this subsection may be increased through the fiscal year ending June 30, 2011. The fees must be deposited in the pilotage account. The board may assess partially active or inactive pilots a reduced fee.

(8) All pilots and pilot trainees are subject to an annual physical examination by a physician chosen by the board. The physician shall examine the pilot's or pilot trainee's heart, blood pressure, circulatory system, lungs and respiratory system, eyesight, hearing, and such other items as may be prescribed by the board. After consultation with a physician and the United States coast guard, the board shall establish minimum health standards to ensure that pilots and pilot trainees licensed by the state are able to perform their duties. Within ninety days of the date of each annual physical examination, and after review of the physician's report, the board shall make a determination of whether the pilot or pilot trainee is fully able to carry out the duties of a pilot or pilot trainee under this chapter. The board may in its discretion check with the appropriate authority for any convictions of or information regarding offenses by a licensed pilot or pilot trainee involving drugs or the personal consumption of alcohol in the prior twelve months.

(9) The board may require vessel simulator training for a pilot trainee and shall require vessel simulator training for a licensed pilot subject to RCW [88.16.105](#). The board shall also require vessel simulator training in the first year of active duty for a new pilot and at least once every five years for all active pilots.

(10) The board shall prescribe, pursuant to chapter [34.05](#) RCW, such reporting requirements and review procedures as may be necessary to assure the accuracy and validity of license and service claims. Willful misrepresentation of such required information by a pilot applicant shall result in disqualification of the pilot applicant.

[2009 c 470 § 708; 2008 c 128 § 4; 2007 c 518 § 706; 2005 c 26 § 2; 1999 sp.s. c 1 § 607; 1995 c 175 § 1; 1991 c 200 § 1002. Prior: 1990 c 116 § 27; 1990 c 112 § 1; 1987 c 264 § 2; 1986 c 122 § 1; 1981 c 303 § 1; 1979 ex.s. c 207 § 3; 1977 ex.s. c 337 § 7; 1967 c 15 § 5; 1935 c 18 § 8; RRS § 9871-8; prior: 1907 c 147 § 1; 1888 p 176 § 8.]

Notes:

Effective date -- 2009 c 470: See note following RCW [46.68.170](#).

Severability -- Effective date -- 2007 c 518: See notes following RCW [46.68.170](#).

Effective date -- 2005 c 26: See note following RCW [88.16.035](#).

Severability -- Effective date -- 1999 sp.s. c 1: See notes following RCW [43.19.1906](#).

Effective date -- 1995 c 175: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 175 § 2.]

Effective dates -- Severability -- 1991 c 200: See RCW [90.56.901](#) and [90.56.904](#).

Findings -- Severability -- 1990 c 116: See notes following RCW [90.56.210](#).

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.100

Pilots' licenses — Revocation, suspension, etc., of — Reprimand or fine — Other disciplinary actions — Procedure — Judicial review.

(1) The board shall have power on its own motion or, in its discretion, upon the written request of any interested party, to investigate the performance of pilotage services subject to this chapter and to issue a reprimand, impose a fine against a pilot in an amount not to exceed five thousand dollars, suspend, withhold, or revoke the license of any pilot, or any combination of the above, for misconduct, incompetency, inattention to duty, intoxication, or failure to perform his duties under this chapter, or violation of any of the rules or regulations provided by the board for the government of pilots. The board may partially or totally stay any disciplinary action authorized in this subsection and subsection (2) of this section. The board shall have the power to require that a pilot satisfactorily complete a specific course of training or treatment.

(2) In all instances where a pilot licensed under this chapter performs pilot services on a vessel exempt under RCW [88.16.070](#), the board may on its own motion, or in its discretion upon the written request of any interested party, investigate whether the services were performed in a professional manner consistent with sound maritime practices. If the board finds that the pilotage services were performed in a manner that constitutes an act of incompetence, misconduct, or negligence so as to endanger life, limb, or property, or violated or failed to comply with state laws or regulations intended to promote marine safety or to protect navigable waters, the board may issue a reprimand, impose a fine against a pilot in an amount not to exceed five thousand dollars, suspend, withhold, or revoke the state pilot license, or any combination of the above. The board shall have the power to require that a pilot satisfactorily complete a specific course of training or treatment.

(3) The board shall implement a system of specified disciplinary actions or corrective actions, including training or treatment, that will be taken when a state licensed pilot in a specified period of time has had multiple disciplinary actions taken against the pilot's license pursuant to subsections (1) and (2) of this section. In developing these disciplinary or corrective actions, the board shall take into account the cause of the disciplinary action and the pilot's previous record.

(4) The board shall immediately review the pilot's license of a pilot who has been charged with any offense involving drugs or the personal consumption of alcohol while on duty, including an offense of operation of a vehicle or vessel while under the influence of alcohol or drugs. After a hearing held pursuant to subsection (5) of this section:

(a) The board shall order a pilot who has been found to have been convicted of an offense involving drugs or the personal consumption of alcohol while on duty and who has not been convicted of another offense involving drugs or the personal consumption of alcohol in the previous five years to actively participate in and satisfactorily complete a specific program of treatment. The board may impose other sanctions it determines are appropriate. If the pilot does not satisfactorily complete the program of treatment, the board shall suspend, revoke, or withhold the pilot's license until the treatment is completed; and

(b) The board shall suspend for not less than one year the license of a pilot found to have been convicted of a second or subsequent offense involving drugs or the personal consumption of alcohol while on duty.

(5) When the board determines that reasonable cause exists to issue a reprimand, impose a fine, suspend, revoke, or withhold any pilot's license or require training or treatment under subsection (1), (2), or (4) of this section, it shall prepare and personally serve upon such pilot a notice advising him or her of the board's intended action, the specific grounds for the action, and the right to request a hearing to challenge the board's action. The pilot shall have thirty days from the date on which notice is served to request a full hearing before an administrative law judge on the issue of the reprimand, fine, suspension, revocation, or withholding of his or her pilot's license, or requiring treatment or training. The board's proposed reprimand, fine, suspension, revocation, or withholding of a license, or requiring treatment or training shall become final upon the expiration of thirty days from the date notice is served, unless a hearing has been requested prior to that time. When a hearing is requested, the board shall request the appointment of an administrative law judge under chapter [34.12](#) RCW who has sufficient experience and familiarity with pilotage matters to be able to conduct a fair and impartial hearing. The hearing shall be governed by the provisions of Title [34](#) RCW. All final decisions of the administrative law judge shall be subject to review by the superior court of the state of Washington for Thurston county, by the superior court of the county in which the pilot maintains his or her residence or principal place of business, or by the superior court of the county in which the board maintains its office, to which court any case with all the papers and proceedings therein shall be immediately certified by the administrative law judge if requested to do so by any party to the proceedings at any time within thirty days after the date of any such final decision. No appeal may be taken after the expiration of thirty days after the date of final decision. Any case so certified to the superior court shall be tried de novo and after certification of the record to said superior court the proceedings shall be had as in a civil action. Moneys collected from fines under this section shall be deposited in the pilotage account.

(6) The board shall have the power, on an emergency basis, to temporarily suspend a state pilot's license: (a) When a pilot has been involved in any vessel accident where there has been major property damage, loss of life, or loss of a vessel, or (b) where there is a reasonable cause to believe that a pilot has diminished mental capacity or is under the influence of drugs, alcohol, or other substances, when in the opinion of the board, such an accident or physical or mental impairment would significantly diminish that pilot's ability to carry out pilotage duties and that the public health, safety, and welfare requires such emergency action. The board shall make a determination within seventy-two hours whether to continue the suspension. The board shall develop rules for exercising this authority including procedures for the chairperson or vice chairperson of the board to temporarily order such suspensions, emergency meetings of the board to consider such suspensions, the length of suspension, opportunities for hearings, and an appeal process. The board shall develop rules under chapter [34.05](#) RCW.

(7) The board shall immediately notify the United States coast guard that it has revoked or suspended a license pursuant to this section and that a suspended or revoked license has been reinstated.

[2008 c 128 § 5; 1990 c 116 § 28; 1987 c 392 § 1; 1986 c 121 § 1; 1981 c 67 § 36; 1977 ex.s. c 337 § 12; 1971 ex.s. c 297 § 4; 1935 c 18 § 13; RRS § 9871-13. Prior: 1888 p 178 § 10.]

Notes:

Findings -- Severability -- 1990 c 116: See notes following RCW [90.56.210](#).

Severability -- 1987 c 392: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 392 § 2.]

Severability -- 1986 c 121: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 121 § 2.]

Effective dates -- Severability -- 1981 c 67: See notes following RCW [34.12.010](#).

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.102

Pilots' licenses — Mandatory termination of.

The license of a pilot is terminated upon the pilot reaching the age of seventy.

[2008 c 128 § 6; 1979 ex.s. c 207 § 4.]

88.16.103

Mandatory rest periods for pilots and pilot trainees — Rules — Assignment refusal — Penalty.

(1) Pilots and pilot trainees, after completion of an assignment or assignments which are seven hours or longer in duration, shall receive a mandatory rest period of seven hours.

(2) A pilot or pilot trainee shall refuse a pilotage assignment if the pilot or pilot trainee is physically or mentally fatigued or if the pilot or pilot trainee has a reasonable belief that the assignment cannot be carried out in a competent and safe manner. Upon refusing an assignment under this subsection, a pilot or pilot trainee shall submit a written explanation to the board within forty-eight hours. If the board finds that the pilot's or pilot trainee's written explanation is without merit, or reasonable cause did not exist for the assignment refusal, such pilot or pilot trainee may be subject to the provisions of RCW [88.16.100](#).

(3) The board shall quarterly review the dispatch records of pilot organizations or pilot's quarterly reports to ensure the provisions of this section are enforced. The board may prescribe rules for rest periods pursuant to chapter [34.05](#) RCW.

[2008 c 128 § 7; 1986 c 122 § 2; 1977 ex.s. c 337 § 9.]

Notes:

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.105

Size and type of vessels prescribed for newly licensed pilot — Rules.

The board shall prescribe, pursuant to chapter [34.05](#) RCW, rules governing the size and type of vessels which a newly licensed pilot may be assigned to pilot on the waters of this state and whether the assignment involves docking or undocking a vessel. The rules shall also prescribe required familiarization trips before a newly licensed pilot may pilot a larger or different type of vessel.

[2008 c 128 § 8; 1991 c 200 § 1003; 1987 c 264 § 3; 1977 ex.s. c 337 § 10.]

Notes:

Effective dates -- Severability -- 1991 c 200: See RCW [90.56.901](#) and [90.56.904](#).

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.107

Pilots or pilot trainees may testify without sanctions for doing so.

Any pilot or pilot trainee licensed pursuant to this chapter may appear or testify before the legislature or board of pilotage commissioners and no person shall place any sanction against said pilot or pilot trainee for having testified or appeared.

[2008 c 128 § 9; 1977 ex.s. c 337 § 15.]

Notes:

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.110

Pilots to file quarterly report — Contents.

(1) Every pilot licensed under this chapter shall file with the board not later than the tenth day of January, April, July, and October of each year a report for the preceding quarter. The report shall contain an account of all moneys received for pilotage by him or her or by any other person for the pilot or on the pilot's account or for his or her benefit. The report shall state the name of each vessel piloted, the amount charged to and/or collected from each vessel, the port of registry of such vessel, its dead weight tonnage, whether it was inward or outward bound, whether the amount so received, collected, or charged is in full payment of pilotage, and other information as the board shall prescribe by rule. The board may from time to time require additional information as it deems necessary.

(2) The report shall include information for each vessel that suffers a grounding, collision, or other major marine casualty that occurred while the pilot was on duty during the reporting period. The report shall also include information on near miss incidents as defined in *RCW [88.46.100](#). Information concerning near miss incidents provided pursuant to this section shall not be used for imposing any sanctions or penalties. The board shall forward information provided under this subsection to the department of ecology for inclusion in the collision reporting system established under *RCW [88.46.100](#).

[2008 c 128 § 10; 2001 c 36 § 5; 1991 c 200 § 1004; 1935 c 18 § 7; RRS § 9871-7. Prior: 1888 p 178 § 22.]

Notes:

*Reviser's note: RCW [88.46.100](#) was amended by 2011 c 122 § 8, deleting the definition of "near miss incident" and also deleting the provisions relating to the collision reporting system.

Effective dates -- Severability -- 1991 c 200: See RCW [90.56.901](#) and [90.56.904](#).

88.16.115

Limiting liability of pilots and any countywide port district in Grays Harbor pilotage district — Deemed in public interest.

The preservation of human life and property associated with maritime commerce on the pilotage waters of this state is declared to be in the public interest, and the limitation and regulation of the liability of pilots licensed by the state of Washington, and of any countywide port district located partly or entirely within the

Grays Harbor pilotage district as defined by RCW [88.16.050\(2\)](#) authorized to provide pilotage services, is necessary to such preservation and is deemed to be in the public interest.

[2005 c 123 § 1; 1981 c 196 § 1.]

Notes:

Report to legislature and governor -- 1981 c 196: "Prior to January 5, 1983, the board of pilotage commissioners shall forward to the legislature and governor a report concerning the implementation of sections 1 through 3 of this act." [1981 c 196 § 4.]

88.16.118

Limited liability of pilots and pilot trainees — Liability of vessel, owner, or operator not limited.

(1)(a) A pilot licensed to act as such by the state of Washington, and any countywide port district located partly or entirely within the Grays Harbor pilotage district as defined by RCW [88.16.050\(2\)](#) authorized to provide pilotage services with pilots employed by or under contract with the port district, shall not be liable for damages in excess of the amount of five thousand dollars for damages or loss occasioned by a pilot's or pilot trainee's errors, omissions, fault, or neglect in the performance of pilotage or pilot training services, except as may arise by reason of the willful misconduct or gross negligence of the pilot.

(b) A pilot trainee licensed to act as such by the state of Washington is not liable for damages in excess of the amount of five thousand dollars for damages or loss occasioned by the pilot trainee's errors, omissions, fault, or neglect in the performance of pilotage or pilot training services, except as may arise by reason of the willful misconduct or gross negligence of the pilot trainee.

(2) When a pilot or pilot trainee boards a vessel to provide pilotage services, that pilot or pilot trainee becomes a servant of the vessel and its owner and operator. Nothing in this section exempts the vessel, its owner, or its operator from liability for damage or loss occasioned by that ship to a person or property on the ground that (a) the ship was piloted by a Washington state licensed pilot or pilot trainee, or (b) the damage or loss was occasioned by the error, omission, fault, or neglect of a Washington state licensed pilot or pilot trainee.

(3) Pilots, pilot trainees, and board members are immune from civil liability to any party for damages or other relief that is in any way based on the communication of, to a pilot or pilot trainee, to the board, or to any other appropriate governmental authority or person, any of the following: (a) Information about any incident or occurrence involving collision, allision, or grounding of any vessel, including near-miss occurrences; (b) information about any other marine occurrence that the pilot or pilot trainee believes involved or involves undue risk in the navigation of any vessel that could result in damage to any person, vessel, structure, aid to navigation, or the marine environment of this state; or (c) any report or other written, oral, or electronic evaluation of the performance of any pilot or pilot trainee. "Performance" includes, but is not limited to, professional ability, attitude, performance of duties, effort, knowledge, skills, and other relevant factors. This protection and immunity does not apply when a pilot or pilot trainee intentionally releases or discloses information known to be false. The immunity granted to a person under this section is in addition to any common law or statutory privilege or immunity enjoyed by the person, and this section is not intended to abrogate or modify any such common law or statutory privilege or immunity. The immunity from civil liability provided under this section shall be liberally construed to accomplish the purposes of this chapter and to encourage the free flow of information and opinions to the board.

[2008 c 128 § 11. Prior: 2005 c 123 § 2; 2005 c 26 § 3; 1984 c 69 § 1.]

Notes:

Effective date -- 2005 c 26: See note following RCW [88.16.035](#).

88.16.120

Failure to observe pilotage rate — Penalty.

No pilot shall charge, collect or receive and no person, firm, corporation or association shall pay for pilotage or other services performed hereunder any greater, less or different amount, directly or indirectly, than the rates or charges herein established or which may be hereafter fixed by the board pursuant to this chapter. Any pilot, person, firm, corporation or association violating the provisions of this section shall be guilty of a misdemeanor and shall be punished pursuant to RCW [88.16.150](#) as now or hereafter amended, said prosecution to be conducted by the attorney general or the prosecuting attorney of any county wherein the offense or any part thereof was committed.

[1987 c 485 § 4; 1977 ex.s. c 337 § 13; 1967 c 15 § 4; 1935 c 18 § 6; RRS § 9871-6.]

Notes:

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.130

Unlicensed pilot liable for payment of rates — Penalty for refusing to employ licensed pilot.

Any person not holding a license as pilot under the provisions of this chapter who pilots any vessel subject to the provisions of this chapter on waters covered by this chapter shall pay to the board the pilotage rates payable under the provisions of this chapter. Any master or owner of a vessel required to employ a pilot licensed under the provisions of this chapter who refuses to do so when such a pilot is available shall be punished pursuant to RCW [88.16.150](#) as now or hereafter amended and shall be imprisoned in the county jail of the county wherein he or she is so convicted until said fine and the costs of his or her prosecution are paid.

[2013 c 23 § 533; 1977 ex.s. c 337 § 14; 1967 c 15 § 8; 1935 c 18 § 11; RRS § 9871-11. Prior: 1907 c 147 § 4.]

Notes:

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.133

Deviations from state law — Duty to submit pilot's report.

A master, pilot, or pilot trainee who deviates from the provisions of this chapter or Title [363](#) WAC in order to comply with any federal or international law or treaty, such as 46 U.S.C. Sec. 2304 et seq., or any other provision of law of the state, or who deviates in order to ensure the safety of the vessel or its crew under the control of the master, pilot, or pilot trainee, shall submit a pilot's report of marine safety occurrence as prescribed by the board of pilotage commissioners in WAC [363-116-200](#) in the case of a near-miss occurrence. If the deviation occurred while the vessel was operating under the control of a pilot or pilot trainee licensed in this state, then the report must be submitted by the pilot or pilot trainee with input provided by the master. The report must describe the circumstances leading to the deviation from the provisions of this chapter and the consequences of that deviation. If the consequences of the deviation include an incident as defined in WAC [363-116-200](#), then the pilot's report of marine safety occurrence must be submitted in addition to any reports required as a result of the incident. The board shall investigate the circumstances surrounding the deviation and, if the facts of the situation so warrant, may waive enforcement

action against the master, pilot, or pilot trainee if the board finds that the deviation was: Taken in order to comply with any other law that may have precedence; required by the ordinary practice of seamen; or justified by the special circumstances of the case.

[2008 c 128 § 15.]

88.16.135

Assignment of pilots to vessels — Request that pilot not be assigned — Hearing on request.

Any ship operator or ship husbanding agent may submit a request in writing to the board that a particular pilot not be assigned to pilot that company's vessels. The request shall be based on specific safety concerns of the ship operator or ship husbanding agent.

The board shall notify interested persons and hold a hearing on that request, and either approve or disapprove the request. If the request is approved, the board shall notify the affected pilot and give the pilot a specific list of vessels for which that pilot shall not provide pilotage services.

[2008 c 128 § 12; 1987 c 485 § 6.]

88.16.140

Pilot's lien for compensation.

Each vessel, its tackle, apparel and furniture and the owner thereof shall be jointly and severally liable for the compensation of any pilot employed thereon and such pilot shall have a lien upon such vessel, her tackle, apparel and furniture for such compensation.

[1935 c 18 § 15; RRS § 9871-15. Prior: 1907 c 147 § 2; 1888 p 178 § 23.]

88.16.150

General penalty — Civil penalty — Jurisdiction — Disposition of fines — Failure to inform of special directions, gross misdemeanor.

(1) In all cases where no other penalty is prescribed in this chapter, any violation of this chapter or of any rule or regulation of the board shall be punished as a gross misdemeanor, and all violations may be prosecuted in any court of competent jurisdiction in any county where the offense or any part thereof was committed. In any case where the offense was committed upon a ship, boat or vessel, and there is doubt as to the proper county, the same may be prosecuted in any county through any part of which the ship, boat or vessel passed, during the trip upon which the offense was committed. All fines collected for any violation of this chapter or any rule or regulation of the board shall within thirty days be paid by the official collecting the same to the state treasurer and shall be credited to the pilotage account: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter [3.62](#) RCW as now exists or is later amended.

(2) Notwithstanding any other penalty imposed by this section, any person who shall violate the provisions of this chapter, shall be liable to a maximum civil penalty of ten thousand dollars for each violation. The board may request the attorney general or the prosecuting attorney of the county in which any violation of this chapter occurs to bring an action for imposing the civil penalties provided for in this subsection.

Moneys collected from civil penalties shall be deposited in the pilotage account.

(3) Any master of a vessel who shall knowingly fail to inform the pilot dispatched to said vessel or any agent, owner, or operator, who shall knowingly fail to inform the pilot dispatcher, or any dispatcher who shall knowingly fail to inform the pilot actually dispatched to said vessel of any special directions mandated by the coast guard captain of the port under authority of the Ports and Waterways Safety Act of 1972, as amended, for the handling of such vessel shall be guilty of a gross misdemeanor.

[1995 c 174 § 2. Prior: 1987 c 485 § 5; 1987 c 202 § 247; 1977 ex.s. c 337 § 8; 1969 ex.s. c 199 § 41; 1967 c 15 § 7; 1935 c 18 § 10; RRS § 9871-10; prior: 1888 p 179 § 27.]

Notes:

Intent -- 1987 c 202: See note following RCW [2.04.190](#).

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.155

Vessel master to make certification before pilotage service offered — Procedure upon refusal — Rules — Penalties — Exception.

(1) The master of any vessel which employs a Washington licensed pilot shall certify on a form prescribed by the board of pilotage commissioners that the vessel complies with:

(a) Such provisions of the United States coast guard regulations governing the safety and navigation of vessels in United States waters, as codified in Title 33 of the code of federal regulations, as the board may prescribe; and

(b) The provisions of current international agreements governing the safety, radio equipment, and pollution of vessels and other matters as ratified by the United States Senate and prescribed by the board.

(2) The master of any vessel which employs a Washington licensed pilot shall be prepared to produce, and any Washington licensed pilot employed by a vessel shall request to see, certificates of the vessel which certify and indicate that the vessel complies with subsection (1) of this section and the rules of the board promulgated pursuant to subsection (1) of this section.

(3) If the master of a vessel which employs a Washington licensed pilot cannot certify that the vessel complies with subsection (1) of this section and the rules of the board adopted pursuant to subsection (1) of this section, the master shall certify that:

(a) The vessel will comply with subsection (1) of this section before the time the vessel is scheduled to leave the waters of Washington state; and

(b) The coast guard captain of the port was notified of the noncomplying items when they were determined; and

(c) The coast guard captain of the port has authorized the vessel to proceed under such conditions as prescribed by the coast guard pursuant to its authority under federal statutes and regulations.

(4) After the board has prescribed the form required under subsection (1) of this section, no Washington licensed pilot shall offer pilotage services to any vessel on which the master has failed to make a certification required by this section. If the master fails to make a certification the pilot shall:

(a) Disembark from the vessel as soon as safely practicable; and

(b) Immediately inform the coast guard captain of the port of the conditions and circumstances by the best possible means; and

(c) Forward a written report to the board no later than twenty-four hours after disembarking from the vessel.

(5) Any Washington licensed pilot who offers pilotage services to a vessel on which the master has failed to make a certification required by this section or the rules of the board adopted under this section shall be subject to RCW [88.16.150](#), as now or hereafter amended, and RCW [88.16.100](#), as now or hereafter amended.

(6) The board shall revise the requirements enumerated in this section as necessary to reflect changes in coast guard regulations, federal statutes, and international agreements. All actions of the board under this section shall comply with chapters [34.05](#) and [42.30](#) RCW. The board shall prescribe the time of and method for retention of forms which have been signed by the master of a vessel in accordance with the provisions of this section.

(7) This section shall not apply to the movement of dead ships. The board shall prescribe pursuant to chapter [34.05](#) RCW, after consultation with the coast guard and interested persons, for the movement of dead ships and the certification process thereon.

[2008 c 128 § 13; 1977 ex.s. c 337 § 11.]

Notes:

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

88.16.160

Severability and short title.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions of this chapter. This chapter may be cited as the "Pilotage Act."

[1967 c 15 § 10; 1935 c 18 § 17; RRS § 9871-16.]

88.16.170

Oil tankers — Intent and purpose.

Because of the danger of spills, the legislature finds that the transportation of crude oil and refined petroleum products by tankers on the Columbia river and on Puget Sound and adjacent waters creates a great potential hazard to important natural resources of the state and to jobs and incomes dependent on these resources.

The legislature recognizes that the Columbia river has many natural obstacles to navigation and shifting navigation channels that create the risk of an oil spill. The legislature also recognizes Puget Sound and adjacent waters are a relatively confined salt water environment with irregular shorelines and therefore there is a greater than usual likelihood of long-term damage from any large oil spill.

The legislature further recognizes that certain areas of the Columbia river and Puget Sound and adjacent waters have limited space for maneuvering a large oil tanker and that these waters contain many natural navigational obstacles as well as a high density of commercial and pleasure boat traffic.

For these reasons, it is important that large oil tankers be piloted by highly skilled persons who are familiar with local waters and that such tankers have sufficient capability for rapid maneuvering responses.

It is therefore the intent and purpose of RCW [88.16.180](#) and [88.16.190](#) to decrease the likelihood of oil spills on the Columbia river and on Puget Sound and its shorelines by requiring all oil tankers above a certain size to employ licensed pilots and to be escorted by a tug or tugs while navigating on certain areas of Puget Sound and adjacent waters.

[1991 c 200 § 601; 1975 1st ex.s. c 125 § 1.]

Notes:

Effective dates -- Severability -- 1991 c 200: See RCW [90.56.901](#) and [90.56.904](#).

Severability -- 1975 1st ex.s. c 125: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 125 § 6.]

Study authorized and directed: "The House and Senate Transportation and Utilities Committees are authorized and directed to study the feasibility, benefits, and disadvantages of requiring similar pilot and tug assistance for vessels carrying other potentially hazardous materials and to submit their findings and recommendations prior to the 45th session of the Washington legislature in January, 1977. Such study shall also include a report on the feasibility, benefits and disadvantages of requiring vessels under tug escort to observe a speed limit, and such study shall include a discussion of the impact of a speed limit on the maneuverability of the vessel, the effectiveness of the tug escort and other legal and technical considerations material and relevant to the required study. Such study shall also include an evaluation and recommendations as to whether there should be a transfer of all duties and responsibilities of the board of pilotage commissioners to the Washington utilities and transportation commission or other state agency, and alternate methods for establishing fair and equitable rates for tug escort and pilot transfer." [1975 1st ex.s. c 125 § 5.]

Discharge of oil and hazardous substances into state waters: RCW [90.56.010](#) through [90.56.040](#).

88.16.180

Oil tankers — State licensed pilot required.

Notwithstanding the provisions of RCW [88.16.070](#), any registered oil tanker of five thousand gross tons or greater, shall be required:

(1) To take a Washington state licensed pilot while navigating Puget Sound and adjacent waters and shall be liable for and pay pilotage rates pursuant to RCW [88.16.035](#); and

(2) To take a licensed pilot while navigating the Columbia river.

[1991 c 200 § 602; 1983 c 3 § 231; 1975 1st ex.s. c 125 § 2.]

Notes:

Effective dates -- Severability -- 1991 c 200: See RCW [90.56.901](#) and [90.56.904](#).

Severability -- 1975 1st ex.s. c 125: See notes following RCW [88.16.170](#).

88.16.190

Oil tankers — Restricted waters — Standard safety features required — Exemptions.

(1) Any oil tanker, whether enrolled or registered, of greater than one hundred and twenty-five thousand deadweight tons shall be prohibited from proceeding beyond a point east of a line extending from Discovery Island light south to New Dungeness light.

(2) An oil tanker, whether enrolled or registered, of forty to one hundred and twenty-five thousand deadweight tons may proceed beyond the points enumerated in subsection (1) if such tanker possesses all of the following standard safety features:

(a) Shaft horsepower in the ratio of one horsepower to each two and one-half deadweight tons; and

(b) Twin screws; and

(c) Double bottoms, underneath all oil and liquid cargo compartments; and

(d) Two radars in working order and operating, one of which must be collision avoidance radar; and

(e) Such other navigational position location systems as may be prescribed from time to time by the board of pilotage commissioners:

PROVIDED, That, if such forty to one hundred and twenty-five thousand deadweight ton tanker is in ballast or is under escort of a tug or tugs with an aggregate shaft horsepower equivalent to five percent of the deadweight tons of that tanker, subsection (2) of this section shall not apply: PROVIDED FURTHER, That additional tug shaft horsepower equivalencies may be required under certain conditions as established by rule and regulation of the Washington utilities and transportation commission pursuant to chapter [34.05](#) RCW: PROVIDED FURTHER, That a tanker assigned a deadweight of less than forty thousand deadweight tons at the time of construction or reconstruction as reported in Lloyd's Register of Ships is not subject to the provisions of RCW [88.16.170](#) through [88.16.190](#).

[1994 c 52 § 1; 1975 1st ex.s. c 125 § 3.]

Notes:

Severability -- 1975 1st ex.s. c 125: See note following RCW [88.16.170](#).

88.16.195

Oil tankers — Not to exceed speed of escorting tug.

An oil tanker under escort of a tug or tugs pursuant to the provisions of RCW [88.16.190](#) shall not exceed the service speed of the tug or tugs that are escorting the oil tanker.

[1990 c 116 § 26.]

Notes:

Findings -- Severability -- 1990 c 116: See notes following RCW [90.56.210](#).

88.16.200

Vessel designed to carry liquefied natural or petroleum gas to adhere to oil tanker provisions.

Any vessel designed for the purpose of carrying as its cargo liquefied natural or liquefied petroleum gas shall adhere to the provisions of RCW [88.16.190](#)(2) as though it were an oil tanker.

[2008 c 128 § 14; 1991 c 200 § 603; 1977 ex.s. c 337 § 16.]

Notes:

Effective dates -- Severability -- 1991 c 200: See RCW [90.56.901](#) and [90.56.904](#).

Severability -- 1977 ex.s. c 337: See note following RCW [88.16.005](#).

EXHIBIT B

CHAPTER 363-116 WAC - PILOTAGE RULES

Effective 11-20-14

WAC 363-116-010 Time and place of meeting. The regular monthly meeting of the board of pilotage commissioners shall be on the second Thursday of each month at 9:30 a.m. in the offices of the Washington state ferries, Seattle, Washington, unless another time and place has been designated by the chairperson at the last previous meeting. If the aforementioned day falls on a holiday, the meeting shall take place on the following Thursday at the same hour.

WAC 363-116-020 Special meeting. A special meeting of the board of pilotage commissioners may be called by the presiding officer, or by a majority of the members of the board, by delivering personally or by mail written notice to all other members of the board at least twenty-four hours before the time of such meeting as specified in the notice. The notice calling a special meeting shall state the purpose for which the meeting is called and the date, hour, and place of such meeting and all provisions of chapter 42.30 RCW shall apply.

WAC 363-116-030 Emergency meeting. If, by reason of an emergency, there is a need for expedited action by the board to meet the emergency, the presiding officer may provide for a meeting site, and the notice requirements of chapter 42.30 RCW shall be suspended during such emergency. To the extent possible, notice of such emergency meeting will be delivered personally, by telephone, telegram, or mail to the members of the board and interested persons, and shall specify the time and place of the emergency meeting and the business to be transacted. Any action taken by the board at such emergency

meeting may be reconsidered by the board at its next regular monthly meeting.

WAC 363-116-050 Records. The board of pilotage commissioners shall keep accurate records of the minutes of the meetings, records of pilots' earnings, mileage piloted, accident reports, licenses, applications for licenses, examinations for licenses, and any and all other records deemed necessary by the board.

WAC 363-116-060 Personnel. The board shall employ the necessary personnel for the conduct of its business following the personnel practices and salary schedules of the Washington state ferries.

WAC 363-116-065 Number of pilots. (1) The board will, from time to time, set the number of pilots to be licensed in each pilotage district of the state that is best calculated to optimize the operation of a safe, fully regulated, efficient, and competent pilotage service. This determination will be made by the board at meetings for which the agenda lists this issue as a topic for resolution. In addition, the board shall plan ahead to ensure, to the extent possible, that pilot trainees enter the training program set forth in WAC 363-116-078 so that they complete the training program in a timely manner.

(2) In setting the number of pilots and making decisions as to when to hold an examination and admit applicants to the training program, the board may consider factors which include, but are not limited to, the following:

(a) Policy of the state to ensure safety of persons, vessels, property and the environment by providing competent, efficient and regulated pilotage for vessels;

(b) The importance of the maritime industry to the state balanced by the potential hazards presented by the navigation of vessels requiring pilots;

(c) The lead time necessary to select and train new pilots;

(d) Regional maritime economic outlook, including without limitation: Current economic trends in the industry, fluctuations in the number of calls, the types of assignments, the size of vessels, the cyclical nature of the traffic and whether traffic is increasing or decreasing and the need to minimize shipping delays;

(e) Workload, assignment preparation and rest needs of pilots;

(f) Trends in size of piloted vessels;

(g) Time lost to injury and illness;

(h) Anticipated retirements;

(i) Administrative responsibilities, continuing education and training requirements consistent with the policy of chapter 88.16 RCW; and

(j) Surface transportation and travel time consumed in pilots getting to and from assignments.

WAC 363-116-070 Collection of fees. All pilots shall pay an annual license fee of six thousand five hundred dollars or such amount as may be set by statute for every year in which they perform any pilotage services. If a licensed pilot does not perform pilotage services during a license year, his/her fee for that year shall be reduced to one thousand dollars upon application to the board. The board of pilotage commissioners shall receive all fees for licenses or for other purposes and make proper accounting of same and transmit all such funds to the pilotage account.

WAC 363-116-0751 Qualifications for pilot applicants.

(1) Sea service.

(a) In addition to meeting the preexamination requirements of RCW 88.16.090, pilot applicants must, before taking the examination provided in WAC 363-116-076, meet one of the following indicated service requirements as master, while holding a minimum license as master of steam or motor vessels of not more than 1600 GRT or 3000 GT (ITC):

Vessel Type	Minimum Size	Waters	Minimum Time
Cargo or tank	5,000 GRT or 10,000 GT (ITC)	Ocean or near coastal	1 year
Cargo or tank	700 GRT or 1,400 GT (ITC)	Ocean or near coastal	2 years
Cargo or tank	1,600 GRT or 3,000 GT (ITC)	Inland	2 years
Passenger or ferry	1,600 GRT or 3,000 GT (ITC)	Ocean, near coastal or inland	2 years
Towing	150 GRT or 300 GT (ITC)	Ocean, near coastal or inland	2 years

(b) In calculating sea service under subsection (1) of this section, a year of service shall equal three hundred sixty days of service on the vessel in the required capacity. Pilot applicants combining the above types of sea service shall have a total of at least two years of the various service times, except that one day of service as master on cargo, tank, or passenger vessels of at least 5000 GRT or 10,000 GT (ITC) shall be credited as two days of service time for the purpose of calculating such combined service times.

(2) In lieu of the requirements of subsection (1) of this section, a pilot applicant may substitute either:

(a) Three years of service as an active member of an organized professional pilot association or as a government employed pilot during which periods the pilot applicant was actively engaged in piloting and docking vessels while holding a minimum license as a master of steam or motor vessels of not more than 1600 GRT or 3000 GT (ITC) upon oceans, near coastal waters or inland waters. For purposes of this section, piloting shall refer to piloting vessels in the capacity of the pilot in charge of navigation with no other responsibilities (either when piloting or not piloting) as a member of the ship's crew; or

(b) Two years of service as a commanding officer or master of U.S. flag government vessels of not less than 3000 displacement tons. The pilot applicant must hold at the time of application a minimum license as master of steam or motor vessels of not more than 1600 GRT or 3000 GT (ITC) upon oceans, near coastal waters or inland waters; or

(c) Two years of service as master of special purpose vessels of not less than 1600 GRT or 3000 GT (ITC) while holding a minimum license as master of steam or motor vessels of not more than 1600 GRT or 3000 GT (ITC), provided that the sea time making up the sea service was spent in charge of a vessel that can be documented to have been underway and to have required the type of ship-handling, navigation and leadership skills that the board finds necessary to provide the experience needed to become a pilot. Evaluation of service time on special purpose vessels shall be made by the board on a case-by-case basis and shall not be approved unless the board finds the service to be the substantial equivalent of the sea service required in subsection (1) (a) and (b) of this section or (a) and (b) of this subsection (2). The determination of the board as to the suitability of service as master of a special purpose vessel will be final.

(3) As used in this section these terms shall have the following meanings:

(a) Cargo or tank vessels shall refer to vessels primarily engaged in the transportation of cargo between points.

(b) Passenger vessels shall refer to vessels primarily engaged in the transportation of passengers between points. This shall include yachts only to the extent and for such times that such vessels are actively engaged in moving passengers between points.

(c) Ferry vessels shall refer to vessels primarily engaged in the transportation of vehicles and passengers between points.

(d) Towing vessels shall refer to vessels primarily engaged in commercial towing of vessels or in ship assist work.

(e) GRT shall refer to gross register tonnage (domestic).

(f) GT (ITC) shall refer to gross tonnage measured in accordance with the requirements of the 1969 *International Convention on Tonnage Measurement of Ships*.

(g) Master shall refer to the person of master's rank on the vessel's station bill or muster list or other such document who, in the event of an emergency or the sounding of a general alarm, is required to be on the bridge and in charge. If there is no such designation, the term master shall refer to the person of master's rank and pay who is ultimately in charge of the navigation of the vessel as reflected in the vessel's official log book, or there being no official log book, the bridge log of the vessel.

(4) It will be the responsibility of the pilot applicant to provide adequate documentation to enable the board to set forth and verify sea service in the manner specified in the board's application form. The board will not provide applicants with a final determination verifying service until it receives an application form. An applicant will not get official notification of whether he/she qualifies to sit for the examination until the board reviews a formal application. In the event an applicant is working on a vessel other than one of the five specified in subsection (1)(a) of this section, e.g., a special purpose vessel, he/she will be required to provide the board with sufficient documentation to demonstrate to the board

the amount of time involved in the navigation of a vessel underway.

WAC 363-116-076 Examination for pilot applicants. (1) Pilot applicants must pass a written examination given and graded by the board or the board's designated contracting entity. The board, in consultation with its designated contracting entity, will develop the written examination and set the minimum passing or "cut" score in conformance with a psychometrically validated process. Notice of the examination shall be published at least four months in advance by one paid advertisement in a major marine industry publication and written notice to any party who has requested notice of such examinations. The board may publish additional notices in such publications or in other media at such times as it deems appropriate. Applications will be accepted by the board immediately following the publication of the notice of the examination. The board may, in an emergency, call for an examination on less than four months notice.

The notice shall indicate which pilotage district or districts the examination is for and, if for both districts, the notice shall make it clear that applicants can elect to apply for a license in one or both of the districts. If an exam is given for both the Grays Harbor and Puget Sound pilotage districts, the applicants shall be graded and evaluated as one applicant pool.

(2) The examination may be taken by all pilot applicants who the board has determined have met the qualifications of WAC 363-116-0751 and who:

(a) Have had an application on file with the board for at least one month prior to the examination. This requirement may be waived by the chairperson of the board upon the showing of good cause. The application shall specify whether the applicant is applying for the Puget Sound pilotage district, the Grays Harbor pilotage district or both.

(b) Have tendered with the application a nonrefundable examination administration fee in such amount as may be set by the board from time to time. The board may, at its discretion, refund all or part of the examination administration fee for a pilot applicant who is unable to sit for the written examination.

(3) The written examination shall be in compliance with RCW 88.16.090 and may consist of questions covering, but not limited to, the following subjects:

(a) Rules of the Road then applicable to the pilotage district for which the pilot applicant is applying and accompanying information set forth in United States government publications on the subject;

(b) Meaning and understanding of the aids to navigation;

(c) Seamanship, including piloting and ship handling, docking and undocking problems, use of ship assist tugs and anchors;

(d) Vessel traffic system regulations;

(e) Engine and rudder order commands for United States and foreign merchant vessels and United States naval vessels;

(f) Operation and use of marine radar and automatic radar plotting aids (ARPA);

(g) Ability to calculate currents and tides;

(h) Federal laws affecting mariners and pilots including environmental laws;

(i) Use of vessel navigational equipment;

(j) Duties of a pilot;

(k) Relationship between pilot and master;

(l) Bridge resource management;

(m) United States government public health quarantine regulations;

(n) Marine VHF radio usage and phraseology, including bridge-to-bridge communications regulations;

(o) Federal navigation safety and security regulations;

(p) International distress signals;

(q) Nonlocal chart knowledge, including chart symbols and abbreviations as set forth in the latest U.S. Department of Commerce, NOS (National Ocean Survey) Chart No. 1;

(r) Maneuvering behavior for different vessel types; and

(s) Impact of propulsion and maneuvering machinery on vessel navigation.

(4) The board may require that the cost of the written examination will be at the expense of the pilot applicant.

WAC 363-116-077 Simulator evaluation for pilot applicants.

(1) Pilot applicants who pass a written examination and whose scores are among the top twenty (or such other number as may be set by the board) of those taking the written examination (plus any pilot applicants who tie a qualifying score) shall be eligible to take the simulator evaluation set forth in this section.

(2) The simulator evaluation shall take place at a marine simulator facility designated by the board and may be recorded. In this evaluation pilot applicants shall be observed by available board members but shall be evaluated only by those available board members who hold, or have held a minimum U.S. Coast Guard license as master of steam or motor vessels of not more than 1600 gross tons. The board shall also appoint a minimum of two additional evaluators who hold, or have held within ten years of the examination date, a state pilot license issued by Washington or another state. If the evaluation is for applicants to both the Grays Harbor and Puget Sound pilotage district, the applicants shall be evaluated as one applicant pool.

(3) All pilot applicants will be evaluated in writing based on some or all of the following factors:

(a) Fundamental piloting and ship handling ability;

(b) Ability to assimilate and prioritize all data necessary to safely maneuver the ship;

(c) Ability to respond appropriately in routine situations;

(d) Ability to respond appropriately in emergency or nonroutine situations;

(e) Ability to communicate well and project the proper bridge presence;

(f) Understanding of bridge resource management; and

(g) Understanding and command of the Rules of the Road then applicable to the pilotage district for which the pilot applicant is applying.

(4) The board, in consultation with its designated contracting entity, shall develop this simulator examination, determine the scoring method, the minimum passing or "cut" score, and the relative weight of this score to the whole examination in conformance with a psychometrically validated process.

(5) The board may require that the cost of the simulator evaluation will be at the expense of the pilot applicant.

WAC 363-116-078 Training program. After passing the written examination and simulator evaluation, pilot applicants pursuing a pilot license will be put on a list for the applicable pilotage district(s) and must enter and successfully complete a training program specified by the board.

(1) Notification. Pilot applicants on a list as described in subsection (2) of this section, waiting to enter a training program shall provide the board with a current address to be used for notification for entry into a training program. Such address shall be a place at which mail is delivered. In addition, a pilot applicant may provide the board with other means of contact such as a phone number, fax number, and/or an e-mail address. The mailing address will, however, be considered the primary means of notification by the board. It will be the responsibility of the pilot applicant to ensure that the board has a current mailing address at all times. If a pilot applicant

cannot personally receive mail at the address provided to the board for any period of time, another person may be designated in writing with a notarized copy to the board as having power of attorney specifically to act in the pilot applicant's behalf regarding such notice. If notice sent to the address provided by the pilot applicant is returned after three attempts to deliver, that pilot applicant will be skipped and the next pilot applicant on the list will be contacted for entry into a training program. A person so skipped will remain next on the list. A pilot applicant or his/her designated attorney in fact shall respond within fifteen calendar days of receipt of notification to accept, refuse, or request a delayed entry into a training program.

(2) Entry. At such time that the board chooses to start a pilot applicant or applicants in a training program for a pilotage district, notification shall be given as provided in this section. Pilot applicants shall be ranked in accordance with a point system established by the board to assess overall performance on the written examination and simulator evaluation. Applicants shall be eligible to enter a training program for a pilotage district in the order of such rankings or as otherwise may be determined by the board. A pilot applicant who refuses entry into a program will be removed from the waiting list with no further obligation by the board to offer a position in that district's training program to such pilot applicant. If the pilot applicant applied for a license in the other pilotage district when applying for the written examination, the applicant shall remain available for that other district's training program in accordance with his/her position on that list.

(a) A pilot applicant who is not able to start a training program within two months of the board's specified entry date may, with written consent of the board, delay entry into that training program. When an applicant delays entry into a training

program by more than two months, the board will give notice to the next pilot applicant on the list for that pilotage district to enter a training program. The pilot applicant who delays entry, shall remain eligible for the next position in that district, provided that the next position becomes available within the earlier of:

(i) Four years from the pilot applicant's taking the written examination; or

(ii) The date scheduled for the next pilotage examination for the district.

(b) A pilot applicant not able to start in a training program within two months of the board's specified entry date and who does not obtain the board's written consent to delay entry into a training program shall no longer be eligible for that district's training program without retaking the examination provided in WAC [363-116-076](#) and the simulator evaluation provided in WAC [363-116-077](#).

(3) Training license. Prior to receiving a training license pilot applicants must pass a physical examination by a board-designated physician and in accordance with the requirements of WAC [363-116-120](#) for initial pilot applicants. A form provided by the board must be completed by the physician and submitted to the board along with a cover letter indicating the physician's findings and recommendations as to the pilot applicant's fitness to pilot. The physical examination must be taken not more than ninety days before issuance of the training license. Holders of a training license will be required to pass a general physical examination annually within ninety days prior to the anniversary date of that license. Training license physical examinations will be at the expense of the pilot applicant. All training licenses shall be signed by the chairperson or his/her designee and shall have an expiration date. Training licenses shall be surrendered to the board upon completion or termination of the training program.

(4) Development. As soon as practical after receiving notification of eligibility for entry into a training program as set forth in this section, the pilot applicant shall meet with the trainee evaluation committee (TEC) for the purpose of devising a training program for that pilot applicant. The training program shall be tailored to the ability and experience of the individual pilot applicant and shall consist of observation trips, training trips and evaluation trips, and such other forms of learning and instruction that may be designated. The TEC shall recommend a training program for adoption by the board. After adoption by the board, it will be presented to the pilot applicant. If the pilot applicant agrees in writing to the training program, the board shall issue a training license to the pilot applicant, which license shall authorize the pilot applicant to take such actions as are contained in the training program. If the pilot applicant does not agree to the terms of a training program in writing within fifteen business days of it being mailed to the applicant by certified mail, return receipt requested, that pilot applicant shall no longer be eligible for entry into that pilotage district's training program and the board may give notice to the next available pilot applicant that he/she is eligible for entry into a training program pursuant to the terms in subsections (1) and (2) of this section.

(5) Initial route.

(a) The trainee evaluation committee (TEC) shall assign an initial route between a commonly navigated port or terminal and the seaward boundary of the pilotage district to each trainee at the beginning of his/her training program.

(b) Unless an extension of time is granted by the board, within eight months of the beginning of the training program if the trainee is on stipend or within fifteen months of the beginning of the training program if the trainee is not on stipend, the trainee must:

(i) Take and pass all conning quizzes provided by the board applicable to the assigned route. These quizzes can be repeated as necessary, provided that they may not be taken more than once in any seven-day period and further provided that they must be successfully passed before the expiration date time period specified in (b) of this subsection; and

(ii) Take and pass the local knowledge examinations provided by the board applicable to the assigned route. These examinations can be repeated as necessary, provided that they may not be taken more than once in any seven-day period and further provided that they must be successfully passed before the expiration date time period specified in (b) of this subsection; and

(iii) Possess a first class pilotage endorsement without tonnage or other restrictions on his/her United States Coast Guard license to pilot on the assigned initial route.

(6) Specification of trips. To the extent possible, a training program shall provide a wide variety of assignments, observation, training and evaluation trips. A training program may contain deadlines for achieving full or partial completion of certain necessary actions. Where relevant, it may specify such factors as route, sequence of trips, weather conditions, day or night, stern or bow first, draft, size of ship and any other relevant factors. The board may designate specific trips or specific numbers of trips that shall be made with training pilots or with the pilot members of the trainee evaluation committee (TEC) or with pilots of specified experience. In the Puget Sound pilotage district, pilot trainees shall complete a minimum of one hundred fifty trips. The board shall set from time to time the minimum number of trips for pilot trainees in the Grays Harbor pilotage district. The total number of trips in a training program shall be established by the board based on the recommendation of the TEC. The board will ensure that during a training program the pilot trainee will get significant review by training pilots and the pilot members of the TEC.

(7) Length of training program. The board shall set the minimum length of a training program provided that it will not be less than eight months in the Puget Sound pilotage district.

(8) Local knowledge. A training program shall provide opportunities for the education of pilot trainees and shall provide for testing of pilot trainees on the local knowledge necessary to become a pilot. This education program shall be developed by the trainee evaluation committee (TEC) and recommended to the board for adoption, in the form of a policy statement, and shall be tailored to the needs of the individual pilot trainee. It shall be the responsibility of the pilot trainee to obtain the local knowledge necessary to be licensed as a pilot in the pilotage district for which he/she is applying. Prior to the completion of a training program, the board, or its designee, may give such local knowledge examination(s) as it deems appropriate to the pilot trainees who shall be required to pass such examination(s) before completing a training program. The TEC may require a pilot trainee to sit for a local knowledge examination provided the TEC informs the pilot trainee in writing sixty days in advance of the scheduled date of the examination. Failure to sit for the examination on the date scheduled may constitute cause for removal from the training program. The TEC may also establish in writing such interim performance requirements as it deems necessary. These local examinations can be repeated as necessary, except that an examination for the same local area may not be taken more than once in any seven-day period and all required local knowledge examinations must be successfully passed before the expiration date of the training program. The local knowledge required of a pilot trainee and the local knowledge examination(s) may include the following subjects as they pertain to the pilotage district for which the pilot trainee seeks a license:

(a) Area geography;

(b) Waterway configurations including channel depths, widths and other characteristics;

(c) Hydrology and hydraulics of large ships in shallow water and narrow channels;

(d) Tides and currents;

(e) Winds and weather;

(f) Local aids to navigation;

(g) Bottom composition;

(h) Local docks, berths and other marine facilities including length, least depths and other characteristics;

(i) Mooring line procedures;

(j) Local traffic operations e.g., fishing, recreational, dredging, military and regattas;

(k) Vessel traffic system;

(l) Marine VHF usage and phraseology, including bridge-to-bridge communications regulations;

(m) Air draft and keel clearances;

(n) Submerged cable and pipeline areas;

(o) Overhead cable areas and clearances;

(p) Bridge transit knowledge - Signals, channel width, regulations, and closed periods;

(q) Lock characteristics, rules and regulations;

(r) Commonly used anchorage areas;

(s) Danger zone and restricted area regulations;

(t) Regulated navigation areas;

(u) Naval operation area regulations;

(v) Local ship assist and escort tug characteristics;

(w) Tanker escort rules - State and federal;

(x) Use of anchors and knowledge of ground tackle;

(y) Applicable federal and state marine and environmental safety law requirements;

(z) Marine security and safety zone concerns;

(aa) Harbor safety plan and harbor regulations;

(bb) Chapters [88.16](#) RCW and [363-116](#) WAC, and other relevant state and federal regulations in effect on the date the examination notice is published pursuant to WAC [363-116-076](#); and

(cc) Courses in degrees true and distances in nautical miles and tenths of miles between points of land, navigational buoys and fixed geographical reference points, and the distance off points of land for such courses as determined by parallel indexing along pilotage routes.

(9) Rest. It is the pilot trainee's responsibility to provide adequate rest time so that he/she is fully able to pilot on training trips. Pilot trainees shall not take pilot training trips in which they will be piloting the vessel without observing the rest rules for pilots in place by federal or state law or regulation or any other rest requirements contained in a training program. For purposes of calculating rest required before a training trip in which the pilot trainee will be piloting after an observation trip in which the pilot trainee did not pilot the vessel, such observation trip shall be treated as though it had been a normal pilot training assignment.

(10) Stipend.

(a) At the initial meeting with the trainee evaluation committee (TEC) the pilot trainee shall indicate whether he/she wishes to receive a stipend during their training program. In the Puget Sound pilotage district, as a condition of receiving such stipend, pilot trainees will agree to forego during their training program other full- or part-time employment which prevents them from devoting themselves on a full-time basis to the completion of their training program. With the consent of the board and, if necessary, the restructuring of their training program, pilot trainees may elect to change from a stipend to nonstipend status, and vice versa, during their training program. In the Puget Sound pilotage district the stipend paid to pilot trainees shall be six thousand dollars per month (or such other amount as may be set by the board from time to time), shall be contingent upon the board's setting of a training surcharge in the tariffs levied pursuant to WAC [363-116-300](#) sufficient to cover the expense of the stipend and shall be paid

from a pilot training account as directed by the board and pursuant thereto shall be paid to pilot trainees as set forth below:

(b) In the Grays Harbor pilotage district the stipend paid to pilot trainees shall be determined by the board and shall be contingent upon the board's receipt of funds, from any party collecting the tariff or providing funds, sufficient to cover the expense of the stipend and shall be paid from a pilot training account as directed by the board and pursuant thereto shall be paid to pilot trainees as set forth below:

Determinations as to stipend entitlement will be made on a full calendar month basis and documentation of trips will be submitted to the board by the fifth day of the following month. The stipend will be paid on an all or nothing basis for each month except that prorations shall be allowed at the rate of two hundred dollars per day (or such other amount as may be set by the board from time to time), under the following circumstances:

(i) For the first and last months of a training program (unless the training program starts on the first or ends on the last day of a month); or

(ii) For a pilot trainee who is deemed unfit for duty by a board-designated physician during a training month; or

(iii) For a pilot trainee who requests a change from a nonstipend status to a stipend status, or from a stipend status to a nonstipend status as set forth in (g) of this subsection.

(c) In the Puget Sound pilotage district a minimum of eighteen trips are required each month for eligibility to receive the stipend. In the Grays Harbor pilotage district the minimum number of trips each month for eligibility to receive the stipend is seventy percent or such number or percentage of trips that may be set by the board of the total number of vessel movements occurring in this district during that month. Only trips required by the training program can be used to satisfy these minimums. Trips will be documented at the end of each month.

(d) It is the pilot trainee's responsibility to make all hard-to-get trips before the end of the training program. If a training program is extended due to a failure to get all of these trips, the board may elect not to pay the stipend if the missing trips were available to the pilot trainee but not taken.

(e) The TEC with approval by the board may allocate, assign or specify training trips among multiple pilot trainees. Generally, the pilot trainee who entered his/her training program earlier has the right of first refusal of training trips provided that the TEC may, with approval by the board, allocate or assign training trips differently as follows:

(i) When it is necessary to accommodate any pilot trainee's initial route;

(ii) When it is necessary to spread hard-to-get trips among pilot trainees so that as many as possible complete required trips on time. If a pilot trainee is deprived of a hard-to-get trip by the TEC, that trip will not be considered "available" under (c) of this subsection. However, the pilot trainee will still be required to complete the minimum number of trips for the month in order to receive a stipend, and the minimum number of trips as required to complete his/her training program;

(f) If a pilot trainee elects to engage in any full-or part-time employment, the terms and conditions of such employment must be submitted to the TEC for prior determination by the board of whether such employment complies with the intent of this section prohibiting employment that "prevents (pilot trainees) from devoting themselves on a full-time basis to the completion of the training program."

(g) If a pilot trainee requests to change to a nonstipend status as provided in this section such change shall be effective for a minimum nonstipend period of thirty days, provided that before any change takes effect the board and the pilot trainee must agree in writing on the terms of a revised training program.

(h) Any approved pilot association or other organization collecting the pilotage tariff levied by WAC [363-116-185](#) or [363-116-300](#) shall transfer the pilot training surcharge receipts to the board at least once a month or otherwise dispose of such funds as directed by the board. In the Grays Harbor pilotage district, if there is no separate training surcharge in the tariff, any organization collecting the pilotage tariff levied by WAC [363-116-185](#) shall transfer sufficient funds to pay the stipend to the board at least once a month or otherwise dispose of such funds as directed by the board. The board may set different training stipends for different pilotage districts. Receipts from the training surcharge shall not belong to the pilot providing the service to the ship that generated the surcharge or to the pilot association or other organization collecting the surcharge receipts, but shall be disposed of as directed by the board. Pilot associations or other organizations collecting surcharge receipts shall provide an accounting of such funds to the board on a quarterly basis or at such other intervals as may be requested by the board. Any audited financial statements filed by pilot associations or other organizations collecting pilotage tariffs shall include an accounting of the collection and disposition of these surcharges. The board shall direct the disposition of all funds in the account.

(11) Trainee evaluation committee. There is hereby created a trainee evaluation committee (TEC) to which members shall be appointed by the board. The TEC shall include at a minimum: Three active licensed Washington state pilots, who, to the extent possible, shall be from the pilotage district in which the pilot trainee seeks a license and at least one of whom shall be a member of the board; one representative of the marine industry (who may be a board member) who holds, or has held, the minimum U.S. Coast Guard license required by RCW [88.16.090](#); and one other member of the board who is not a pilot. The TEC may

include such other persons as may be appointed by the board. The TEC shall be chaired by a pilot member of the board and shall meet as necessary to complete the tasks accorded it. In the event that the TEC cannot reach consensus with regard to any issue it shall report both majority and minority opinions to the board.

(12) Training pilots. The board shall designate as training pilots those pilots who are willing to undergo such specialized training as the board may require and provide. Training pilots shall receive such training from the board to better enable them to give guidance and training to pilot trainees and to properly evaluate the performance of pilot trainees. The board shall keep a list of training pilots available for public inspection at all times. All pilot members of the trainee evaluation committee (TEC) shall also be training pilots.

(13) Training and assessment. Before, during and after a pilot trainee pilots a vessel under the supervision of a pilot on a training trip, the supervising pilot shall, to the extent possible, communicate with and give guidance to the pilot trainee in an effort to make the trip a valuable learning experience. On an evaluation trip, this communication will normally occur after completion of the trip. After each trip, the supervising pilot shall complete a trip report form provided by the board. Trip report forms prepared by licensed pilots who are not training pilots shall be used by the trainee evaluation committee (TEC) and the board for assessing a pilot trainee's progress, providing guidance to the pilot trainee and for making alterations to a training program. The use of trip report forms prepared by licensed pilots who are not training pilots shall be appropriately weighed by the board and the TEC when making licensing decisions and recommendations. All trip report forms shall be delivered or mailed by the supervising pilot to the board. They shall not be given to the pilot trainee. The supervising pilot may show the contents of the form to the pilot trainee, but the pilot trainee has no right to see the form

until it is filed with the board. The TEC shall review these trip report forms from time to time and the chairperson of the TEC shall report the progress of all pilot trainees at each meeting of the board. If it deems it necessary, the TEC may recommend, and the board may make, changes from time to time in the training program requirements applicable to a pilot trainee, including the number of trips in a training program.

(14) Termination of and removal from a training program. A pilot trainee's program may be immediately terminated and the trainee removed from a training program by the board if it finds any of the following:

(a) Failure to maintain the minimum federal license required by RCW [88.16.090](#);

(b) Conviction of an offense involving drugs or involving the personal consumption of alcohol;

(c) Failure to devote full time to training in the Puget Sound pilotage district if receiving a stipend;

(d) The pilot trainee is not physically fit to pilot;

(e) Failure to make satisfactory progress toward timely completion of the program or timely meeting of interim performance requirements in a training program;

(f) Inadequate performance on examinations or other actions required by a training program;

(g) Failure to complete the initial route requirements specified in subsection (5) of this section within the time periods specified;

(h) Inadequate, unsafe, or inconsistent performance in a training program and/or on training trips as determined by the supervising pilots, the trainee evaluation committee (TEC) and/or the board; or

(i) Violation of a training program requirement, law, regulation or directive of the board.

(15) Completion of a training program shall include the requirement that the pilot trainee:

(a) Successfully and timely complete the requirements set forth in the training program;

(b) Possess a valid first class pilotage endorsement without tonnage or other restrictions on his/her United States government license to pilot in all of the waters of the pilotage district in which the pilot applicant seeks a license; and

(c) Successfully complete any local knowledge examination(s) required by the board and specified in the training program.

WAC 363-116-080 Licensing of pilots. (1) No person shall be issued a pilot license until he/she has applied for a pilot license and successfully completed:

(a) The written examination(s);

(b) The simulator evaluation;

(c) The pilot training program, as determined by the board;

(d) A physical examination; and

(e) Tendered the license fee stipulated in WAC 363-116-070.

(2) A majority of board members in attendance at a meeting where licensing of an applicant is scheduled for consideration, shall pass on the issuance of a pilot license. Pilot licenses shall be signed by the chairperson or his/her designee.

(3) At the time of completion of a training program as provided in WAC 363-116-078 and at the time of consideration for licensing, all applicants must provide a copy of his/her U.S. master license required by RCW 88.16.090 with a first class U.S. pilotage endorsement without tonnage or other restrictions on that U.S. master license to pilot in all of the waters of the pilotage district defined in RCW 88.16.050 in which the applicant desires to be licensed and an endorsement on that U.S. master license as a radar observer (unlimited); and a certificate representing competency in automatic radar plotting aids (ARPA).

(4) No person shall be licensed by the board who has been convicted of an offense involving drugs or the personal

consumption of alcohol in the twelve months prior to the date of application. This restriction shall not apply to license renewals.

(5) After completion of a training program the trainee evaluation committee (TEC) shall review the evaluations and the pilot trainee's performance on other required aspects of the training program and make a recommendation to the board that the pilot trainee is: Suitable for licensing; not suitable for licensing; or, in need of more training and further evaluation. The board shall consider such recommendation and may: Issue the license if there is a need for a pilot in the relevant pilotage district; require more training for the pilot trainee if necessary; deny a license if it finds that the pilot trainee should not be licensed; or, delay the issuance of a license, if there is no need for a pilot at that time in the relevant district. If the board delays the issuance of a license, it may prescribe additional training trips for the pilot trainee and continue the pilot trainee in the training program. The criteria to be followed by the board in issuing or denying licenses shall include, but not be limited to: Performance in the training program; piloting and ship handling and general seamanship skills; local knowledge; and, bridge presence and communication skills.

(6) If two or more pilot trainees are deemed qualified by the board for issuance of a license at the same meeting of the board, the pilot trainee with the highest combined score on the initial written examination and simulator evaluation shall be licensed first.

WAC 363-116-081 Rest period. (1) Pilots shall observe rest period requirements as set out in RCW 88.16.103 as now or hereafter amended. For purposes of applying this rule an assignment shall begin at the pilot's dispatched departure time if the pilot is on board, regardless of when the ship actually

sails. The assignment ends when the pilot leaves the vessel. Travel time shall not be included in an assignment.

WAC 363-116-082 Limitations on new pilots. (1) The following limitations and pilot license upgrade requirements shall apply to a newly licensed pilot during his/her first five years of active service. For purposes of this section, the term "tank vessel" shall, in addition to tank ships, include any articulated or integrated tug and tank barge combinations, and any tonnage restrictions thereon shall be calculated by including the gross tonnage of the tug and tank barge combined. For purposes of this section, the term "petroleum products" shall include crude oil, refined products, liquefied natural gas, and liquefied petroleum gas. GT (ITC) as used in this section refers to gross tonnages measured in accordance with the requirements of the 1969 International Convention on Tonnage Measurement of Ships.

(2) Puget Sound pilotage district - license limitation periods. Except for trips being made for pilot license upgrades, licenses issued in the Puget Sound pilotage district shall have the following limitations:

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products as Bulk Cargo	Maximum Size of Other Vessels
1	Piloting on vessels of any size prohibited	30,000 GT (ITC) or 660 feet except for passenger vessels which may only have a maximum size of 5,000 GT (ITC)
2	30,000 GT (ITC)	38,000 GT (ITC)
3	38,000 GT (ITC)	48,000 GT (ITC)
4	45,000 GT (ITC)	60,000 GT (ITC)
5	55,000 GT (ITC)	75,000 GT (ITC)

(3) Puget Sound pilotage district - pilot license upgrade requirements. Progressive lifting of tonnage limitations requires a newly licensed pilot to satisfactorily pilot vessels on the trips specified in this section. The trainee evaluation committee shall recommend to the board a series of eight trips to be made by each pilot in the last one hundred twenty days of each year of the license limitation periods specified in subsection (2) of this section, except that pilots whose license anniversary date is less than one hundred twenty days after the effective date of this section shall only be required to make three such trips prior to the first license anniversary subsequent to the effective date of this section. As to these trips, the trainee evaluation committee shall specify the size and type of the vessel; origin and destination, whether the transit is to include a docking, waterway transit or other particular maneuvering requirement, whether any tank vessel trips are to be made while in ballast or loaded and whether the trip shall be taken with training pilots, trainee evaluation committee member pilots or pilots with a specified experience level. To the extent practical, the trips shall be on vessels of at least a size that falls between the upper limit in the expiring license limitation and the upper limit in the upcoming license limitation period. All of these trips shall be complete trips between one port and another port, or between the pilot station and a port. The supervising pilots shall complete and submit to the board an evaluation form provided by the board for each trip a new pilot performs.

(4) Grays Harbor pilotage district - license limitation periods. Pilots licensed in the Grays Harbor pilotage district shall not pilot vessels in violation of the restrictions set forth in the table below during the indicated license year.

License Year	Maximum Size of Tank Vessels Carrying Petroleum Products	Maximum Size of Other Vessels
1	Piloting on vessels of any size prohibited	25,000 GT (ITC) except that piloting on vessels of any size is prohibited through the Chehalis River Bridge unless vessel is in ballast and does not exceed 25,000 GT (ITC)
2	10,000 GT (ITC)	30,000 GT (ITC)
3	45,000 GT (ITC)	45,000 GT (ITC)
4	60,000 GT (ITC)	60,000 GT (ITC)
5	75,000 GT (ITC)	75,000 GT (ITC)

Notwithstanding subsection (7) of this section, upon determination that a bona fide safety concern may result from no pilot without license restrictions being available within a reasonable time to pilot a vessel requiring pilotage services, the chairperson or acting chairperson of the board, on a single trip basis, may authorize a newly licensed pilot holding a restricted license to provide pilotage services to the vessel, irrespective of the tonnage, service or location of the assigned berth of the vessel.

(5) Grays Harbor pilotage district - pilot license upgrade requirements.

(a) Prior to the expiration of the first license year, a new pilot must make five license upgrade trips. Three of these trips shall be through the Chehalis River bridge on loaded or partially loaded vessels. The other trips shall be on vessels in excess of 25,000 GT (ITC) and involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.

(b) Prior to the expiration of the second license year, a new pilot must make two license upgrade trips on tank vessels in excess of 10,000 GT (ITC) and one trip on a vessel in excess of 30,000 GT (ITC). Two of these trips shall involve docking and

passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway. Upon satisfactory completion of the two upgrade trips upon tank vessels and completion of the second license year, the pilot will be authorized to pilot tank vessels in accordance with the limitations specified in subsection (4) of this section. Upon satisfactory completion of the one upgrade trip upon a vessel in excess of 30,000 GT (ITC) and completion of the second license year, the pilot will be authorized to pilot vessels in accordance with the limitations specified in subsection (4) of this section.

(c) Prior to the expiration of the third license year, a new pilot must make three license upgrade trips on vessels in excess of 45,000 GT (ITC). Two of these trips shall involve docking and passage to or from the sea buoy; and one of these trips shall involve turning the vessel in the waterway.

(d) Prior to the expiration of the fourth license year, a new pilot must make two license upgrade trips on vessels in excess of 60,000 GT (ITC).

(e) Prior to the expiration of the fifth license year, a new pilot must make two license upgrade trips on vessels in excess of 75,000 GT (ITC).

(f) If vessels are not available in the Grays Harbor pilotage district to allow a pilot to comply with (c) through (e) of this subsection in a timely manner, the board may designate substitute trips in the Puget Sound pilotage district as allowed by law and in so doing may specify the size of the vessel and any other characteristics of the trips that the board deems appropriate. Such designation shall be considered a modification of the pilot's state license to authorize the specified trips in the Puget Sound pilotage district.

(6) The initial license shall contain the limitations contained above and list the date of commencement and expiration of such periods. If a newly licensed pilot is unable to pilot for forty-five days or more in any one of the five years, he/she

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shall notify the board and request a revised schedule of limitations.

(7) Except as provided in subsection (4) of this section, no pilot shall be dispatched to, or accept an assignment on, any vessel which exceeds the limitations of his/her license. On vessels in which there is more than one pilot assigned, the license limitations shall apply only to the pilot in charge.

(8) All limitations on a pilot's license shall be lifted at the beginning of the sixth year of piloting provided he/she has submitted to the board a statement attesting to the fact that he/she has completed all the required license upgrade trips and the vessel simulator courses.

WAC 363-116-083 Written examination protest and appeal procedures. (1) Pilot applicants who take a written examination as provided in this chapter shall provide the board with an address to be used for notification of his/her written examination results. Such address shall be a place at which mail is delivered. In addition, a pilot applicant may provide the board with other means of contact such as telephone numbers and/or e-mail addresses. It will be the responsibility of the pilot applicant to ensure that the board has a current mailing address at all times. The mailing address will be considered the primary means of notice by the board. If the pilot applicant cannot personally receive mail at the address provided to the board for any period of time, another person may be designated in writing and notarized to the board as having power of attorney specifically to act on the pilot applicant's behalf regarding such notice. Notice delivered to the address provided by the pilot applicant will be considered received by the pilot applicant for the purpose of "receipt of notification of the written examination results" as provided in subsection (2) of this section.

(2) A pilot applicant who takes either a written examination as provided in WAC 363-116-076 or a written local

knowledge examination as provided in WAC 363-116-078 that cannot be retaken may submit a written protest regarding any such examination for review by the board and/or a committee designated by the board and/or by a firm under contract with the board for development and grading of the written examination. The standard of review for reviewing the written examination protests submitted by a pilot applicant is that the written examination score will not be set aside unless the pilot applicant proves the challenged score was the result of fraud, coercion, arbitrariness or manifest unfairness. If it finds that reasonable cause exists to question a written examination grade, the board may allow a pilot applicant protesting his/her written examination results to enter the simulator evaluation. If the pilot applicant chooses to enter the simulator evaluation before the pilot applicant receives notification of the result of the review of his/her *Protest Form* the pilot applicant shall be at all times responsible for the charge to enter the simulator evaluation. No pilot applicant approved by the board for entry into the simulator evaluation shall be disqualified by the successful examination appeal of another pilot applicant. Pilot applicants are not entitled to a review of the results of a written local knowledge examination given pursuant to WAC 363-116-078 if the pilot applicant is eligible to retake the written examination.

(3) The procedure for submitting a protest regarding the written examination or a written local knowledge examination that cannot be retaken is as follows:

(a) The pilot applicant must submit a protest in writing to the person administering such examination on the day that the pilot applicant takes such examination and before the pilot applicant leaves the examination room;

(b) On the day of such examination the pilot applicant will be provided a *Protest Form* by the person(s) administering such examination at the time that documents for taking such written examination are given to the pilot applicant;

(c) In defense of his/her written examination answers and in support of the pilot applicant's reasons for protesting a question or questions, the pilot applicant must write on the *Protest Form* the reason(s) why he/she protests a question or questions, what the pilot applicant claims is the correct answer to the protested question(s), and if a protested question(s) involves mathematical calculations provide the calculations that the pilot applicant claims are correct;

(d) If there are protests regarding improprieties including but not limited to the administration and proctoring of the examination, these assertions must be documented in writing with sufficient detail naming times, people, places, protested activities and witnesses to permit the board to conduct an investigation;

(e) The pilot applicant will be identified only by number or letter for the purpose of review of the *Protest Form*;

(f) The pilot applicant shall submit his/her *Protest Form* at the same time that he/she submits the answer sheet for such written examination to the examination administrator.

(4) The procedure for review of the *Protest Form* submitted by the pilot applicant is as follows:

(a) The board, and/or a committee designated by it, and/or a firm under contract with the board for development and grading of the written examination will review the written examination and *Protest Form* completed by the pilot applicant; and

(b) After completion of such review the pilot applicant will be provided with written notification of the decision regarding review of the *Protest Form* submitted by the pilot applicant. The written notification will show any adjusted credits and scores for any answers that have been changed following such review.

(5) A pilot applicant who is not satisfied with the result of such review of his/her *Protest Form* may request an adjudicative hearing pursuant to RCW 88.16.090 and governed by the provisions of chapter 34.05 RCW to appeal his/her written

examination results. Such hearing must be requested within thirty days of receipt of the result of the review of the *Protest Form* by sending a written request for an adjudicative hearing to the board of pilotage commissioners' office. The grounds and issues for the adjudicative hearing and any further appeal shall be limited to the following:

(a) Was the administrative protest procedure set forth in subsections (2) through (4) of this section followed?;

(b) Was the examination conducted in accordance with accepted psychometric and industrial/organizational psychology principles as determined by an expert in these fields of study?;

(c) Was the examination "job related" as determined by an expert in these fields of study?; and

(d) Was the examination, scoring, and appeal process validated by an expert in these fields of study?

WAC 363-116-084 Simulator evaluation review and appeal procedures. (1) Pilot applicants who take a simulator evaluation as provided in this chapter shall provide the board with an address to be used for notification of his/her simulator evaluation results. Such address shall be a place at which mail is delivered. In addition, a pilot applicant may provide the board with other means of contact such as telephone numbers and/or e-mail addresses. It will be the responsibility of the pilot applicant to ensure that the board has a current mailing address at all times. The mailing address will be considered the primary means of notice by the board. If the pilot applicant cannot personally receive mail at the address provided to the board for any period of time, another person may be designated in writing and notarized to the board as having power of attorney specifically to act on the pilot applicant's behalf regarding such notice. Notice delivered to the address provided by the pilot applicant will be considered received by the pilot applicant for the purpose of "receipt of notification of the

simulator evaluation results" as provided in subsection (2) of this section.

(2) A pilot applicant who takes a simulator evaluation as provided in this chapter may request a review of his/her simulator evaluation results. This request must be in writing and must be received by the board within five business days of receipt of notification of the simulator evaluation results. The standard of review for reviewing the simulator evaluation results challenged by a pilot applicant is that the challenged evaluation score will not be set aside unless the pilot applicant proves the challenged score was the result of fraud, coercion, arbitrariness or manifest unfairness.

(3) The procedure for filing a request for review of the simulator evaluation is as follows:

(a) The pilot applicant must contact the board office for an appointment to appear personally to review his/her simulator evaluation;

(b) The pilot applicant will be provided a *Review Form* to complete in the board designated review location in defense of his/her simulator evaluation performance;

(c) In review of his/her simulator evaluation performance, the pilot applicant must demonstrate that his/her proposed evaluation of the simulator evaluation is correct;

(d) In review of his/her simulator evaluation performance, the pilot applicant must cite on the *Review Form* provided by the board, the specific situation(s) presented in the simulator evaluation (i.e., crossing, passing, meeting situations, environmental changes like fog descending, navigational decisions and/or rules-of-the-road interpretations) and detail why the actions he/she took in that situation should receive more credit than that which was given, to demonstrate that his/her score on the simulator evaluation provided by the board is incorrect;

(e) Only the recorded performance of the pilot applicant will be considered in any review of the simulator evaluation

performance. If there are assertions regarding improprieties in the administration, proctoring, grading or scoring of the simulator evaluations, these assertions must be documented in writing with sufficient detail naming times, people, places, protested activities and witnesses to permit the board to conduct an investigation;

(f) The pilot applicant will be identified only by number or letter for the purpose of this review;

(g) The board will make available to the pilot applicant reviewing his/her simulator evaluation a copy of his/her simulator evaluation performance; and

(h) At the completion of the review session, the pilot applicant will submit all the *Review Forms* to the board and return all materials used to review his/her simulator evaluation. The pilot applicant will not be allowed to take any notes or materials from the board designated review location upon leaving.

(4) The procedure for the board's review of the request for review of the simulator evaluation filed by the pilot applicant is as follows:

(a) The board, and/or a committee designated by it, and/or a firm under contract with the board for development and grading of the simulator evaluation will review the simulator evaluation and *Review Form* completed by the pilot applicant; and

(b) After completion of such review the pilot applicant will be provided with written notification of the decision regarding review of the *Review Form* submitted by the pilot applicant. The written notification will show any adjusted credits and scores for any answers that have been changed following such review.

(5) A pilot applicant who is not satisfied with the result of such review of his/her *Review Form* may request an adjudicative hearing pursuant to RCW 88.16.090 and governed by the provisions of chapter 34.05 RCW to appeal his/her simulator evaluation results. Such hearing must be requested within

thirty days of receipt of the result of the review of the *Review Form* by sending a written request for an adjudicative hearing to the board of pilotage commissioners' office. The grounds and issues for the adjudicative hearing and any further appeal shall be limited to the following:

(a) Was the administrative protest procedure set forth in WAC 363-116-083 (2) through (4) followed?;

(b) Was the examination conducted in accordance with accepted psychometric and industrial/organizational psychology principles as determined by an expert in these fields of study?;

(c) Was the examination "job related" as determined by an expert in these fields of study?; and

(d) Was the examination, scoring, and appeal process validated by an expert in these fields of study?

WAC 363-116-085 Association bylaws. The association of pilots for the Puget Sound pilotage district, together with the association of pilots for the Grays Harbor pilotage district, shall maintain on file with the commission a current copy of their respective association bylaws and amendments. Hereafter they shall file with the commission each new amendment adopted by their respective groups in order that the board may be kept informed of association acts and activities.

WAC 363-116-086 Challenges to board actions concerning licensing determinations and appeal procedures. This section shall apply to all proceedings involving a board determination made pursuant to WAC 363-116-080:

(1) Pilot trainees who enter a training program as provided in this chapter shall provide the board with an address to be used for notification purposes. Such address shall be a place at which mail is delivered. In addition, a pilot trainee may provide the board with other means of contact such as telephone numbers and/or e-mail addresses. It will be the responsibility of the pilot trainee to ensure that the board has a current

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mailing address at all times. The mailing address will be considered the primary means of notice by the board. Notice delivered to the address provided by the pilot trainee will be considered received by the pilot trainee for the purpose of receipt of notification of the board's decision to deny a pilot license or extend a training program as provided in subsection (2) of this section.

(2) A pilot trainee who is denied a license or continued in his or her training program, pursuant to a decision rendered under WAC 363-116-080(5), shall be notified of the board's determination, in writing, by the chair of the board as soon as practicable. The pilot trainee shall have twenty days from which notice of the decision is served to file a notice of appeal of the board's decision with the board, pursuant to WAC 10-08-110 and 10-08-211. The board's decision will become a final order upon expiration of twenty days from the date notice is served, unless notice of appeal has been filed prior to that time. Upon the filing of the notice of appeal, the chair of the board shall appoint a presiding officer, who shall conduct the hearing and issue an initial order pursuant to chapter 34.05 RCW.

(3) Any hearing conducted pursuant to a request for review as indicated in subsection (2) of this section shall be conducted pursuant to the rules set forth in chapters 10-08 and 363-11 WAC and this section. In the event of a conflict, this section shall control.

(a) The board and the trainee evaluation committee shall be required to produce no more than a total of two fact witnesses and no more than one expert witness in connection with any hearing pursuant to this section, unless the board's chair, in his or her sole discretion, believes additional witnesses are necessary to present its case. This limitation shall apply to the hearing and any prehearing discovery.

(b) The board has determined, in its discretion, that because each pilot trainee brings different skill sets to his or

her training program as a result of their prior experience, and the trainee evaluation committee develops an individually tailored training program based upon that pilot trainee's skill set and prior experience; comparisons between pilot trainees' performances in their respective training program are not relevant when assessing the pilot trainee's performance which is the subject of a notice of appeal and/or petition for review hereunder. Any documentation or testimony concerning the performance of other pilot trainees in their training program shall not be considered during any proceeding involved in the review process and shall not be submitted or solicited as evidence in any hearing under this section, nor shall it be submitted or solicited as evidence in any discovery deposition, nor shall it be included in the board's record of proceedings or any petition for review.

(c) The scope of the hearing shall be limited to the validity of the training and evaluation process. The grounds for appeal shall be limited to the following issues:

(i) Does the training and evaluation process comport with accepted psychometric and industrial/organizational psychology principles and evaluation?

(ii) Is the board's training and evaluation process a valid and reliable measurement system meeting all criteria of formative and summative assessment?

(iii) Is the training program job related?

(iv) Was the board's decision made pursuant to WAC 363-116-080(5) arbitrary and capricious?

(d) The presiding officer shall issue an initial order at the conclusion of the hearing in conformance with the requirements of chapter 34.05 RCW and WAC 10-08-210.

(4) Any petition for review of the initial order shall be filed in conformance with WAC 10-08-211. The chair of the board shall then appoint a "reviewing officer" who shall issue a final order. The standard of review by the reviewing officer shall be the same as that set forth in subsection (3)(c) of this section.

WAC 363-116-110 Details and requirements of annual license fee payment, physical examination report and reinstatement application for licensed pilots. (1) Annual license fees and reports on annual physical examinations pursuant to RCW 88.16.090 shall be submitted to the board on or before the anniversary date of the license. Each pilot shall ensure that the board, at all time, possesses a copy of his/her currently valid United States government license with radar endorsement issued by the United States Coast Guard.

(2) A pilot, who retires under his/her medical disability retirement plan, may apply for reinstatement of his/her pilot's license within five years from the date of his/her last pilotage assignment, provided the pilot is capable of passing a physical examination without any restrictions as to full pilotage duties. The board may, at its discretion, waive all or part of the pilotage examination. The board shall require the pilot to complete a familiarization/training program prescribed by the board after a full review of all relevant factors. The board may also prescribe license limitations such as those contained in WAC 363-116-082.

WAC 363-116-115 Sanctions for drug and alcohol offenders. (1) The board shall review the pilot's license of any pilot who, within the preceding twelve months, has been convicted of any offense involving drugs or the personal consumption of alcohol while on duty, including an offense of operating a vessel or vehicle while under the influence of alcohol or drugs.

(2) Where a pilot is found to have been convicted of an offense involving drugs or the personal consumption of alcohol while on duty within the prior twelve months, but who has not been convicted of an offense involving drugs or the personal consumption of alcohol in the previous five years, and after a hearing held pursuant to RCW 88.16.100(5), the board shall: Order the pilot to actively participate in and satisfactorily

complete a specific program of treatment. The board may impose such other sanctions as it deems appropriate. If the pilot does not satisfactorily complete the program of treatment, the board shall suspend, revoke, or withhold the pilot's license until the treatment is completed.

(3) Where a pilot is found to have been convicted of a second or subsequent offense involving drugs or the personal consumption of alcohol while on duty within the prior twelve months, the board, after a hearing is held pursuant to RCW 88.16.100(5), shall suspend the license of the pilot for up to one year.

(4) The board shall immediately notify the United States Coast Guard that it has revoked or suspended a license pursuant to this section and the board shall also notify the United States Coast Guard when a suspended or revoked license has been reinstated.

WAC 363-116-120 Job description-Physical examination-Health requirements. (1) A Washington state licensed marine pilot, under the authority of the master, directs ships into and out of harbors, estuaries, straits, sounds, rivers, lakes, and bays using a specialized knowledge of local conditions including winds, weather, tides, and current: Orders officers and helmsman by giving course and speed changes and navigates ship to avoid conflicting marine traffic, congested fishing fleets, reefs, outlying shoals and other hazards to shipping; utilizes aids to navigation, such as lighthouses and buoys. Utilizes ship's bridge equipment, including radar, fathometer, speed log, gyro, magnetic compass, whistle or horn and other navigational equipment as needed. Required to use ship's radio equipment in contacting United States Coast Guard vessel traffic system and other ships while ship is in transit. Directs ship's officers, crewmen, and tug boat captains as necessary, when ships are transiting bridges, narrow waterways, anchoring, docking, and undocking. Must perform duties day or night in all weather

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conditions, including high winds, fog, mist, rainfall, falling snow and other adverse conditions, as encountered. In order to safely perform the foregoing duties, a Washington state licensed marine pilot shall:

(a) Be physically qualified to possess a U.S. Coast Guard master's license, as required by the state of Washington.

(b) Be capable of boarding a vessel from and leaving a vessel into a pilot boat via a Jacob's ladder and a gangway. A Jacob's ladder involves a vertical climb or descent of up to nine meters and requires both physical energy and mental judgment.

(c) Be capable of moving to a more desirable vantage point in a timely manner, so as to avoid a close quarters situation when the physical characteristics of the ship or cargo obstruct the pilot's field of vision.

(d) Be able to meet the necessary eyesight and hearing requirements to carry out marine pilotage duties.

(e) Have mental reflexes capable of allowing decisions to be made without delay. This is imperative in all aspects of ship handling.

(f) Be capable of withstanding mental stresses which may occur with a vessel in lowered visibility, in a close quarters situation or when docking or undocking.

(g) Be capable of working efficiently and effectively at any time of the day or night, including irregular and unscheduled hours, after sufficient rest.

(h) Possess mental maturity and show mental responsibility.

(2) In order to determine the physical fitness of persons to serve as licensed pilots under the provisions of the pilotage act, all licensed pilots and pilot applicants shall be required to pass a general physical examination annually within ninety days prior to the date their annual state pilot license fee is due. As used in this section pilot refers to licensed pilots, including pilots seeking to renew their state licenses, and pilot applicant refers to both pilot license applicants who have

completed the board training program but do not yet have a pilot license and to training license applicants. The physical examination required of all pilots and initial pilot applicants shall demonstrate that he/she is fully able to carry out the duties of a pilot. The examination shall assure that one's abilities as a pilot will not be impaired by eyesight, hearing or other bodily function. As part of this examination pilots and pilot applicants shall have completed on a form provided by the board a detailed report of physical examination. Each pilot is required to report on the form any convictions of offenses involving drugs or the personal consumption of alcohol which occurred while on duty within the prior twelve months. Pilot applicants for a license must report on the form any and all convictions of offenses involving drugs or the personal consumption of alcohol which occurred within the twelve months prior to the date of their application. This form shall be prepared by the examining physician and shall be submitted to the board along with a letter stating his/her findings/recommendations as to the ability of the pilot or pilot applicant to safely perform the pilotage duties based on the job description for a Washington state licensed marine pilot and the standards set forth below. The examining physician should review these standards and review the job description in subsection (1) of this section before making findings/recommendations as to the medical fitness of the pilot applicant. A medical/occupational history form will be completed and signed by the initial pilot applicant for review by the physician prior to the initial examination. The board may in its discretion check with the appropriate authorities for any convictions of offenses involving drugs or the personal consumption of alcohol in the prior twelve months. The detailed report of physical examination is a confidential record and will not be available for public inspection. Such examination shall be obtained at the expense of the licensed pilot or pilot applicant from a physician or physicians designated in advance

by the board. The secretary of the board shall give each pilot or pilot applicant reasonable written notice of the date when any such physical examination becomes due and shall specify the name of the physicians then approved by the board to conduct such physical examination.

(3) Based upon the findings/recommendations of the examining physician and review by the board, the board will make the determination as to the pilot applicant's or pilot's fitness to perform the duties of a pilot. This determination will be made within ninety days after each annual physical examination.

(4) The purpose of the history and physical examination is to detect the presence of physical, mental, or organic defects of such character and extent as to affect an individual's ability to pilot a vessel safely. The examination will be made carefully and at least as complete as indicated by the form provided by the board. History of certain defects may be cause for rejection of the initial pilot applicant or indicate the need for making certain laboratory tests or a further and more stringent examination. Defects may be recorded which do not, because of their character or degree, indicate that certification of physical fitness should be denied. However, these defects should be discussed with the pilot applicant or pilot who should be advised to take the necessary steps to ensure correction, particularly of those which, if neglected, might lead to a condition likely to affect the ability to perform the duties of a pilot.

(5) The board has determined which physical conditions may be permanently disqualifying for initial pilot applicants as well as which conditions may be permanently disqualifying for renewal of a pilot license. Certain conditions are not necessarily disqualifying, for renewal of a pilot license only, when, based on the knowledge and experience of the examining physician these conditions can be managed medically and without threat to the pilot's ability to perform the duties of a pilot.

An individual may be disqualified when, in the opinion of the

examining physician, there is reasonable probability that a condition can occur suddenly and without warning which would render the pilot applicant incapable of promptly responding, both mentally and physically to emergency situations. When certain conditions exist the medical examiner may recommend either:

- (a) A permanent disqualification; or

- (b) A temporary disqualification until which time the condition is either corrected or medically managed.

(6) Initial pilot applicants will be required to take a test indicating they are free of illegal substance abuse. Testing will be for the presence of cocaine, opiates, marijuana (THC), amphetamines and PCP (phencyclidine). Testing will be in accordance with the Department of Transportation (Coast Guard) guidelines outlined in the Federal Register 46 CFR 4, 5, and 16. Urine specimens are to be analyzed by a laboratory that meets DHHS regulations set forth by the National Institute of Drug Abuse (NIDA).

Chain of custody forms and instructions for collection and transport to a NIDA approved laboratory can be obtained from:

Laboratory of Pathology
Nordstrom Medical Tower
P.O. Box 14950
Seattle, WA 98114-0950
206-386-2872

(7) The conditions in these standards are listed according to the International Classification of Diseases (ICD). Some categories may not apply to the standards set forth and therefore may be absent in some listings. However, all categories should be taken into consideration by the examining physician.

- (a) Infectious and parasitic diseases.

- (b) Neoplasms.

(c) Endocrine, nutritional, metabolic, and immunity disorders.

(d) Diseases of the blood and blood forming organs.

(e) Mental disorders.

(f) Diseases of the nervous system and sense organs.

(g) Diseases of the respiratory system.

(h) Diseases of the digestive system.

(i) Diseases of the genitourinary system.

(j) Complications of pregnancy, childbirth, and the puerperium.

(k) Diseases of the skin and subcutaneous tissues.

(l) Diseases of the musculoskeletal system and connective tissues.

(m) Congenital anomalies.

(n) Certain conditions originating in the perinatal period.

(o) Symptoms, signs, and other ill defined conditions.

(p) Injury and poisonings.

(8) The guidelines for recommended visual standards are based on the necessity of a pilot to be able to safely perform the duties of a pilot, including functioning under all emergency conditions aboard the vessel. Consideration must be given to the pilot's previously demonstrated ability to perform his/her pilotage duties.

(a) The visual acuity of a pilot applicant shall be at least 20/200 in each eye uncorrected and correctable to at least 20/40 in each eye as determined by Snellen test or its equivalent unless the pilot applicant qualifies for a waiver from the Officer in Charge, Marine Inspection, or the Commandant, U.S. Coast Guard.

(b) The initial pilot applicant should have normal color vision per pseudo isochromatic plates, Ishihara or Keystone test. If the initial pilot applicant fails this test, the Farnsworth or Williams Lantern tests or their equivalent may be used to determine the initial pilot applicant's ability to distinguish primary colors.

(c) Loss of vision in one eye may not be disqualifying if one eye passes the test required for the better eye of the pilot applicant with binocular vision and the pilot applicant has had sufficient time to develop and demonstrate adequate judgment of distances.

(d) Pilot applicants who wear corrective lenses and meet the qualifications in (a) of this subsection are medically fit to carry out pilotage duties only while wearing their corrective lenses and if they have with them, while on duty, a spare pair of correcting lenses that provide at least the same visual acuity.

(9) Baseline audiograms shall be performed on all entry level pilot applicants. All licensed pilots will be tested annually, with the first audiogram considered baseline. Each ear will be tested separately using properly calibrated equipment which meets ANSI (American National Standards Institute) standards criteria for background noise in audiometric rooms. Testing should not be performed unless the pilot applicant has been free of work noise or intense noise for a period of at least fourteen hours prior to testing. Should the pilot applicant have a current condition which can cause a temporary hearing loss, such as a cold, the pilot applicant should be rescheduled for testing in two weeks, or until such condition is resolved. Testing will be performed by a licensed audiologist, otolaryngologist, physician with sufficient training in conducting and interpreting audiograms, or a technician who is currently certified by the Council for Accreditation in Occupational Hearing Conservation (CAOHC).

(a) A baseline audiogram is required on all initial pilot applicants. The first audiogram performed on a currently licensed pilot shall be considered the baseline audiogram.

(b) Pilot applicants having hearing threshold levels that do not exceed 40 dB at frequencies of 500, 1000, 2000, 3000 Hz in either ear are considered to have normal hearing for communication purposes.

(c) Annual audiograms will be performed thereafter for the purposes of comparison to baseline. A significant threshold shift is defined as a change averaging more than 10 dB from baseline in the frequencies of 500, 1000, 2000, and 3000 Hz and requires further evaluation by a physician, otolaryngologist, or audiologist and preventive action taken on the part of the pilot.

(d) Mechanical acoustical devices (hearing aids) are not disqualifying but should not be worn in areas of high background noise levels in order to prevent further deterioration of his/her hearing.

(e) A pilot applicant must minimally be able to hear an average conversational voice in a quiet room while standing with his/her back turned at a distance of eight feet.

(10) Below is a list of conditions which can be absolutely disqualifying for initial licensure as a maritime pilot. The list of causes for disqualification is not all inclusive or intended to be complete, but represents the types of conditions that would interfere with the safe performance of pilotage duties. This guide is not intended to replace the physician's professional judgment. Rather, it calls for the physician and the board to closely examine whether the pilot applicant can safely perform the tasks outlined in the job description of a Washington state licensed marine pilot. The examining physician should also be aware that a second opinion concerning the diagnosis may be sought in cases of unfavorable determinations. A condition should only be considered disqualifying while such condition persists. Following corrective medical action the pilot applicant should be encouraged to apply for reentry.

Conditions Which Can Be Absolutely Disqualifying For Initial Licensure

1. Infectious and parasitic diseases - Any communicable disease in its communicable or carrier stage.

2. Neoplasms - Malignant diseases of all kinds in any location.
3. Endocrine, nutritional, metabolic, and immunity disorders - Diabetes requiring insulin or hypoglycemic drugs; cirrhosis of the liver; alcohol abuse (unless abstinence for two years).
4. Diseases of the blood and blood forming organs - Hemophilia; acute or chronic significant anemias.
5. Mental disorders - Severe personality disorders; use of illegal drugs; dementia of Alzheimer's type, senility, psychosis.
6. Diseases of the nervous system and sense organs - Epilepsy or any convulsive disorder resulting in an altered state of consciousness, regardless of control; disturbance of balance; multiple sclerosis; Meniere's syndrome.
7. Diseases of the circulatory system - Multiple myocardial infarctions or cardiac class II or IV (NYHA); hypotension with syncopal episodes; varicose veins if associated with edema, skin ulceration or residual scars. Recurrent thromboembolic conditions.
8. Diseases of the respiratory system - Active pulmonary tuberculosis Class IV respiratory impairment; permanent tracheostomy.
9. Diseases of the genitourinary system - Chronic renal failure; permanent ureterostomy.
10. Complications of pregnancy, childbirth, and the puerperium - Pregnancy is not in itself disqualifying, if, in the opinion of the examining physician and the pilot applicant's obstetrician determine that the pilotage duties can be safely carried out without risk to the mother or fetus and without risk to the safety of the vessel, crew, and property.
11. Diseases of the skin and subcutaneous tissues - There are no absolute exclusions listed for diseases of the skin unless, in the opinion of the examining physician, a condition

exists that would interfere with the performance of pilotage duties.

12. Diseases of the musculoskeletal system and connective tissues - Lupus erythematosus, disseminated; amputation of any portion of a limb, resection of a joint, artificial joint or absence of the toes which would preclude the ability to run, walk, balance oneself, grasp and climb ladder rungs; chronic low back pain that is disabling to the degree of interfering with job requirements.

13. Congenital anomalies - Any existing condition that, in the opinion of the examining physician, would interfere with the safe performance of pilotage duties.

14. Symptoms, signs, and other ill defined conditions - Serious degree of stuttering or speech impediment sufficient to interfere with communication; alcoholism; drug addiction, other than tobacco or caffeine.

15. Injury or poisonings - May be temporarily disqualifying until condition resolved without disabling sequelae.

(11) Below is a list of conditions which can be absolutely disqualifying for relicensure as a maritime pilot. The list of causes for disqualification is not all inclusive or intended to be complete, but represent the types of conditions that would interfere with the safe performance of pilotage duties. This guide is not intended to replace the physician's professional judgment. Rather, it calls for the physician and the board to closely examine whether the pilot applicant can continue to safely perform the tasks outlined in the job description of a Washington state licensed marine pilot. The examining physician should also be aware that a second opinion concerning diagnosis may be sought in cases of unfavorable determinations.

Conditions Which Can Be Absolutely Disqualifying For Relicensure

1. Neoplasms - Malignancies with metastases.

2. Endocrine, nutritional, metabolic, and immunity disorders - Cirrhosis of the liver with hepatic failure.
3. Diseases of the blood and blood forming organs - Hemophilia; acute leukemia.
4. Mental disorders - Severe personality disorders; senility; dementia of Alzheimer's type psychosis.
5. Diseases of the nervous system and sense organs - Disturbance of balance, permanent and untreatable Meniere's syndrome.
6. Diseases of the circulatory system - Multiple myocardial infarctions or cardiac Class III or IV (NYHA); hypotension with syncopal episodes; varicose veins if associated with edema, skin ulceration or residual scars. Recurrent thromboembolic conditions.
7. Diseases of the respiratory system - Active pulmonary tuberculosis; Class IV respiratory impairment.
8. Diseases of the genitourinary system - Chronic renal failure; permanent ureterostomy.
9. Complications of pregnancy, childbirth, and puerperium - Pregnancy is not in itself disqualifying, if, in the opinion of the examining physician and the pilot applicant's obstetrician determine that the pilotage duties can be safely carried out without risk to the mother or fetus and without risk to the safety of the vessel, crew and property.
10. Diseases of the skin and subcutaneous tissues - There are no absolute exclusions for diseases of the skin unless, in the opinion of the examining physician, a condition exists that would interfere with the performance of pilotage duties.
11. Diseases of the musculoskeletal and connective system - Lupus erythematosus, disseminated; amputation of any portion of a limb, resection of a joint, artificial joint or absence of the toes which would preclude the ability to run, walk, balance oneself, grasp, and climb ladder rungs. Chronic low back pain that is disabling to the degree of interfering with job requirements.

12. Symptoms, signs, and other ill defined conditions - Serious degree of stuttering or speech impediment sufficient to interfere with communication; alcoholism; drug addiction, other than tobacco or caffeine. Current need to use methadone, antabuse, antidepressants, antianxiety drugs.

13. Injury or poisonings - May be temporarily disqualifying until condition resolved without disabling sequelae.

(12) Some conditions may develop during the course of employment that would be absolutely disqualifying for initial licensure. In evaluating the impact of such a condition on an existing pilot, the examining physician and the board should take into consideration the pilot's past experience, effectiveness of performance and predictability of his/her performance. The board may waive certain duties of a pilot as outlined in the job description contained in subsection (1) of this section. The list of conditions requiring in-depth evaluation is not all inclusive or intended to be complete, but represent the types of conditions that might interfere with the safe performance of pilotage duties. The examining physician should also be aware that a second opinion concerning the diagnosis may be sought in cases of unfavorable determinations.

Conditions Requiring In-depth Evaluation

1. Neoplasms - Malignancies of any kind.

2. Endocrine, nutritional, metabolic, and immunity disorders - Diabetes requiring hypoglycemic drugs; cirrhosis of the liver.

3. Diseases of the blood and blood forming organs - Chronic leukemia.

4. Mental disorders - Anxiety reactions; depression.

5. Diseases of the nervous system and sense organs - Disturbance of balance; multiple sclerosis; epilepsy or any convulsive disorder resulting in an altered state of consciousness.

6. Diseases of the circulatory system - Uncontrolled hypertension; varicose veins; pacemaker, demand.

7. Diseases of the respiratory system - Respiratory impairment; permanent tracheostomy.

8. Diseases of the digestive system - Permanent colostomy; permanent ileostomy.

9. Complications of pregnancy, childbirth, and the puerperium - Pregnancy.

10. Diseases of the skin and subcutaneous tissues - Any skin disorders that, in the opinion of the examining physician, may interfere with the performance of pilotage duties.

11. Diseases of the musculoskeletal system and connective tissues - Lupus erythematosus, disseminated; artificial joints; chronic low back pain.

12. Injury or poisonings - May be temporarily disqualifying until condition resolved without disabling sequelae.

(13) A pilot may be temporarily relieved of pilotage duties until such time as a disqualifying condition is resolved or medically managed and with frequent evaluation by the examining physician or specialist. In this case, the board, after consulting with the physician, will determine the frequency of medical examinations. A condition should only be considered disqualifying while such a condition persists. Following corrective medical action, the individual may be removed from temporary disqualification. Provided that, if a temporary disqualifying condition continues for longer than two years from the time the pilot is initially relieved of pilotage duties, the board, in its discretion and after a full review of all relevant factors, may make a determination that the condition is permanently disqualifying.

WAC 363-116-140 Limitations.

WAC 363-116-170 Pilotage station. Port Angeles is hereby declared the location of the pilotage station for Puget Sound
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and adjacent inland waters and tariffs shall be assessed accordingly. Boundary pilotage shall apply on ships going to and coming from all British Columbia ports.

WAC 363-116-175 Tariff proposals. The board of pilotage commissioners has been charged with certain statutory duties by RCW 88.16.035. To assist the board in its responsibilities to provide for the maintenance of efficient and competent pilotage services and to annually fix the pilotage tariffs for pilotage services to be performed on the waters covered by chapter 88.16 RCW, it shall be the policy that licensed pilots, ship operators, and interested members of the public may jointly or separately present tariff proposals to the board for its consideration. Any such proposals shall endeavor to provide that the tariff at all times funds the training program and the number of pilots licensed by the board.

To that end, individual Washington state licensed pilots, independent ship owners or operators, members of the public and/or agents, committees or organizations representing said persons or corporations are authorized to meet, discuss, and prepare joint or separate tariff proposals for board consideration. They may appear before the board to support or oppose any such proposal, or part thereof, but the final determination, adoption and active supervision of the rates, charges, expense items, and classifications to be contained in said pilotage tariffs and the rules, regulations, or procedures to implement said annual tariffs shall be made by the board.

WAC 363-116-185 Pilotage rates for the Grays Harbor pilotage district. Effective 0001 hours January 1, 2015, through 2400 hours December 31, 2015.

CLASSIFICATION

RATE

Charges for piloting of vessels in the inland waters and tributaries of Grays Harbor shall consist of the following:

Draft and Tonnage Charges:

Each vessel shall be charged according to its draft and tonnage for each vessel movement inbound to the Grays Harbor pilotage district, and for each movement outbound from the district.

Draft	\$110.55 per meter
	or
	\$33.69 per foot
Tonnage	\$0.316 per net registered ton
Minimum Net Registered Tonnage	\$1,180.00
Extra Vessel (in case of tow)	\$621.00

Provided that, due to unique circumstances in the Grays Harbor pilotage district, vessels that call, and load or discharge cargo, at Port of Grays Harbor Terminal No. 2 shall be charged \$6,141.00 per movement for each vessel movement inbound to the district for vessels that go directly to Terminal No. 2, or that go to anchor and then go directly to Terminal No. 2, or because Terminal No. 2 is not available upon arrival that go to layberth at Terminal No. 4 (without loading or discharging cargo) and then go directly to Terminal No. 2, and for each vessel movement outbound from the district from Terminal No. 2, and that this charge shall be in lieu of only the draft and tonnage charges listed above.

Boarding Charge:

Per each boarding/deboarding from a boat or helicopter	\$1,050.00
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Harbor Shifts:

For each shift from dock to dock, dock to anchorage, anchorage to dock, or anchorage to anchorage	\$772.00
Delays per hour	\$182.00
Cancellation charge (pilot only)	\$303.00
Cancellation charge (boat or helicopter only)	\$908.00

Two Pilots Required:

When two pilots are employed for a single vessel transit, the second pilot charge shall include the harbor shift charge of \$772.00 and in addition, when a bridge is transited the bridge transit charge of \$333.00 shall apply.

Pension Charge:

Charge per pilotage assignment, including cancellations	\$403.00
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Travel Allowance:

Transportation charge per assignment	\$105.00
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Pilot when traveling to an outlying port to join a vessel or returning through an outlying port from a vessel which has been piloted to sea shall be paid \$1,023.00 for each day or fraction thereof, and the travel expense incurred.

Bridge Transit:

Charge for each bridge transited	\$333.00
Additional surcharge for each bridge transited for vessels in excess of 27.5 meters in beam	\$910.00

Miscellaneous:

The balance of amounts due for pilotage rates not paid within 30 days of invoice will be assessed at 1 1/2% per month late charge.

WAC 363-116-200 Duties of pilots. (1) In any case where a vessel in the charge of a state licensed pilot or a state licensed pilot trainee is involved in an incident or near-miss occurrence, the pilot and the pilot trainee on the vessel shall make a report to the board in the following required manner:

(a) *Report of Incident.* A state licensed pilot and a state licensed pilot trainee involved in an incident shall notify the board by telephoning or radioing the Marine Exchange of Puget Sound as soon as the situation is stabilized or within one hour of reaching shore. In addition, all incidents shall be reported to the board on the *Report of Incident* form as soon as possible after the incident, but in no event more than ten days afterwards. If a pilot trainee is involved, both the pilot trainee and the supervising pilot shall file a *Report of Incident*. In any event where a pilot or pilot trainee is unaware of the occurrence of an incident at the conclusion of his/her piloting assignment, the pilot and pilot trainee shall file a *Report of Incident* within ten days of being informed of the occurrence of the incident. An incident includes an actual or apparent collision, allision or grounding, as well as a navigational occurrence which results in actual or apparent personal injury or property damage or environmental damage. An incident also includes any occurrence where a pilot or pilot trainee falls or is injured while embarking or disembarking a vessel or otherwise is physically endangered while performing his/her duties on a vessel, regardless of whether the incident results in physical injury to the pilot or pilot trainee.

(b) *Report of Marine Safety Occurrence.* A state licensed pilot and state licensed pilot trainee involved in a near-miss occurrence shall complete the board required *Report of Marine Safety Occurrence* form and file it with the board as soon as

possible after the near-miss occurrence, but in no event more than ten days afterwards. If a pilot trainee is involved, both the pilot trainee and the supervising pilot shall file a *Report of Marine Safety Occurrence*. A near-miss occurrence is where a pilot or pilot trainee successfully takes action of a nonroutine nature to avoid a collision with another vessel, structure or aid to navigation, to avoid a grounding of the vessel or to avoid causing damages to the environment. Information relating to near-miss occurrences provided by a pilot and pilot trainee on this form shall not be used for imposing any sanctions or penalties against the pilot or pilot trainee involved in the occurrence. A state licensed pilot or pilot trainee may also use this form on a voluntary basis for reporting out of the ordinary occurrences or concerns for navigational safety encountered or observed during the course of piloting a vessel as well as safety issues encountered or observed on the vessel, the dock, or in the area around the vessel.

(c) Completion of these forms does not replace or relieve a pilot or pilot trainee from any other reporting requirements under federal, state or local law. If circumstances permit, a pilot or pilot trainee will notify the vessel master of his/her intent to file a report of incident or marine safety occurrence with the board. The board shall forward a copy of any form received to the respective shipper or its board representative. The board may, with or without a complaint being made against a pilot or pilot trainee, investigate the matter reported upon.

(2) Pilots and pilot trainees will report to the pilot office and to the aids to navigation officer of the United States Coast Guard, all changes in lights, range lights, buoys, and any dangers to navigation that may come to their knowledge.

(3) Any pilot or pilot trainee who shall fail, neglect or refuse to make a report to the board as required by the pilotage laws of the state, or by these rules and regulations, for a period of ten days after the date when the report is required to be made, shall be subject to having his/her license suspended at

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the discretion of the board, and if he/she fails to report for a period of thirty days the board may, at its discretion, revoke his/her license.

(4) Pilots or pilot trainees when so notified in writing shall report in person to the board at any meeting specified in such notice.

(5) Any pilot or pilot trainee summoned to testify before the board shall appear in accordance with such summons and shall make answer, under oath, to any question put to him/her which deals with any matter connected with the pilot service, or of the pilotage waters over which he/she is licensed to act. He/she shall be entitled to have his/her attorney or advisor present during any such appearance and testimony.

(6) Any pilot who shall absent himself/herself from his/her pilotage duties or district for a period of sixty days without permission of the board of pilotage commissioners shall be liable to suspension or to the forfeiture of his/her license.

(7) A pilot or pilot trainee on boarding a ship, if required by the master thereof, shall exhibit his/her license, or photostatic copy thereof.

(8) When a pilot licensed under this act is employed on an enrolled ship, the same rules and regulations shall apply as pertain to registered ships.

(9) Any state licensed pilot or pilot trainee assigned to pilot a vessel entering, leaving, or shifting berths under its own power in any of the waters subject to the provisions of chapter 88.16 RCW shall before assuming pilotage obligations for such vessel obtain assurance from the master that the vessel meets all requirements for safe navigation and maneuvering. In addition, the pilot or pilot trainee shall obtain assurance that the ship's officers will maintain navigation procedures by all navigational aids available to insure that the vessel's position is known at all times. If the pilot or pilot trainee in his/her professional judgment considers the vessel to be incapable of safe navigation and maneuvering due to performance limitations,

he/she shall refuse to assume the obligations of pilotage for such vessel until such limitations have been corrected and shall promptly notify the pilot's control station and the chairman of the board of pilotage commissioners of such action.

(10) In providing pilotage services under chapter 88.16 RCW every pilot and pilot trainee shall perform those duties in a professional manner and without negligence so as to not endanger life, limb or property, not violate or not fail to comply with state laws or regulations intended to promote marine safety or to protect navigable waters.

(11) A pilot involved in a serious marine incident as that term is defined in 46 CFR 4.03-2 shall, in addition to meeting all requirements imposed by federal law:

(a) To the extent practicable and safe, stabilize the vessel and request relief by the dispatching of another pilot; and

(b) As soon as the relief pilot arrives, transfer the con of the vessel to the new pilot; such that the pilot and any pilot trainee involved in the incident may meet the requirements of 46 CFR Part 4.06.

WAC 363-116-205 Vessel certification. (1) Upon boarding a vessel in the Puget Sound pilotage district or Grays Harbor pilotage district, a pilot shall request on the form provided in WAC 296-116-2051 that the master of the vessel certify that:

(a) The engine room is properly staffed, able to maneuver, and all related equipment is in good order; (b) there are no defects listed against the ship by the United States Coast Guard which would prevent it from sailing; (c) the vessel is not leaking oil; (d) the vessel is experiencing no propulsion or maneuvering difficulties.

If the master is unable to certify that all of the above conditions are met, he/she shall be asked to certify that the United States Coast Guard captain of the port has been notified of said deficiencies and has authorized the vessel to proceed.

If the master is unable or unwilling to certify that either of the above are the case, the pilot shall not offer pilotage services to said vessel. Instead, the pilot shall disembark from the vessel as soon as practicable, immediately inform the captain of the port of the conditions and circumstances by the best possible means and forward a written report to the board of pilotage commissioners no later than twenty-four hours after disembarking from the vessel. Any Washington licensed pilot who offers pilotage services to a vessel on which the master has failed to make a certification required by this section shall be subject to the penalties provided in RCW 88.16.100 and 88.16.150.

(2) Upon boarding vessels in either the Puget Sound pilotage district or the Grays Harbor pilotage district, the pilot shall also request to see the vessel's SOLAS certificate, and the Federal Maritime Commission certificate of financial responsibility.

The pilot shall also inspect the following of the ship's equipment and conditions and indicate their suitability:

VHF radio, channels 13, 14; radar; gyrocompass; rudder angle indicator; whistle; wheelhouse staffed by an officer and helmsman, one of whom speaks English; local, up-to-date charts; and wheelhouse to engine room communications.

(3) The form appearing in WAC 296-116-2051 shall be used by pilots and masters in complying with the above requirements.

(4) Forms completed by masters and pilots which indicate that the vessel is in compliance and nondeficient shall be forwarded to the offices of the board of pilotage commissioners where they will be retained for a period of at least six months. Forms indicating a vessel not in compliance or deficient and forms upon which either the master or the pilot have failed to make the required certification shall be forwarded to the board of pilotage commissioners and retained for a period of at least twelve months.

Washington State Board of Pilotage Commissioners

Vessel Name:

MASTER'S CERTIFICATION

I,, Master of this vessel, certify the following information:

Yes No

Is the engine room properly staffed, the engine able to maneuver, and all related equipment in good order?	<input type="checkbox"/>	<input type="checkbox"/>
Does this ship meet United States Coast Guard regulations governing safety and navigation?	<input type="checkbox"/>	<input type="checkbox"/>
Does this vessel comply with current international agreements governing safety and radio equipment?	<input type="checkbox"/>	<input type="checkbox"/>
Is this vessel leaking oil?	<input type="checkbox"/>	<input type="checkbox"/>
Is this vessel experiencing propulsion or maneuvering difficulties?	<input type="checkbox"/>	<input type="checkbox"/>

I have notified the United States Coast Guard Captain of the Port of any deficiencies noted above and he has authorized the vessel to proceed. Any such deficiencies will be corrected before the time the vessel is scheduled to leave the waters of Washington state.

Master's Signature

PILOT'S REPORT

I,, a pilot licensed by the **ACCEPTABLE** **NOT READILY AVAILABLE** **UNACCEPTABLE**
state of Washington, certify that upon
boarding the above-named vessel on this date
I requested to see the following certificates:

CERTIFICATE			
SOLAS Certificate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FMC Certificate of Financial Responsibility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Pilot's Signature

DEAD SHIP MOVEMENT

I,, owner, master, or agent's representative of **Yes** **No**
this vessel, certify the following information:
Is the vessel leaking oil? ☐ ☐

Are the lights per COLREGS?	<input type="checkbox"/>	<input type="checkbox"/>
Are thru hull fittings secured?	<input type="checkbox"/>	<input type="checkbox"/>
Is the vessel in all respects seaworthy for transit?	<input type="checkbox"/>	<input type="checkbox"/>

Owner, Master, or Agent's Representative

WAC 363-116-300 Pilotage rates for the Puget Sound pilotage district. **Effective 0001 hours January 1, 2015, through 2400 hours June 30, 2016.**

CLASSIFICATION

RATE

Ship length overall (LOA)

Charges:

Per LOA rate schedule in this section.

Pilot boat fee:	\$348.00
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Per each boarding/deboarding at the Port Angeles pilot station.

Harbor shift - Live ship (Seattle Port)	LOA Zone I
Harbor shift - Live ship (other than Seattle Port)	LOA Zone I
Harbor shift - Dead ship	Double LOA Zone I
Towing charge - Dead ship:	Double LOA Zone

LOA of tug + LOA of tow + beam of tow

Any tow exceeding seven hours, two pilots are mandatory. Harbor shifts shall constitute and be limited to those services in moving vessels from dock to dock, from anchorage to dock, from dock to anchorage, or from anchorage to anchorage in the same port after all other applicable tariff charges for pilotage services have been recognized as payable.

Compass Adjustment	\$359.00
Radio Direction Finder Calibration	\$359.00
Launching Vessels	\$540.00
Trial Trips, 6 hours or less (minimum \$1,014.00)	\$169.00 per hour
 Trial Trips, over 6 hours (two pilots)	 \$338.00 per hour
Shilshole Bay – Salmon Bay	\$211.00

Salmon Bay – Lake Union	\$164.00
Lake Union – Lake Washington (plus LOA zone from Webster Point)	\$211.00
Cancellation Charge	LOA Zone I
Cancellation Charge – Port Angeles:	LOA Zone II
(When a pilot is ordered and vessel proceeds to a port outside the Puget Sound pilotage district without stopping for a pilot or when a pilot order is canceled less than twelve hours prior to the original ETA.)	

Waterway and Bridge Charges:

Ships up to 90' beam:

A charge of \$266.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle, south of Eleventh Street in any of the Tacoma waterways, in Port Gamble, or in the Snohomish River. Any vessel movements required to transit through bridges shall have an additional charge of \$127.00 per bridge.

Ships 90' beam and/or over:

A charge of \$361.00 shall be in addition to bridge charges for any vessel movements both inbound and outbound required to transit south of Spokane Street in Seattle and south of Eleventh Street in any of the Tacoma waterways. Any vessel movements required to transit through bridges shall have an additional charge of \$251.00 per bridge.

(The above charges shall not apply to transit of vessels from Shilshole Bay to the limits of Lake Washington.)

Two or three pilots required:

In a case where two or three pilots are employed for a single vessel waterway or bridge transit, the second and/or third pilot charge shall include the bridge and waterway charge in addition to the harbor shift rate.

Docking Delay After Anchoring:

Applicable harbor shift rate to apply, plus \$274.00 per hour standby. No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$274.00 for every hour or fraction thereof.

Sailing Delay:

No charge if delay is 60 minutes or less. If the delay is more than 60 minutes, charge is \$274.00 for every hour or fraction thereof. The assessment of the standby charge shall not exceed a period of twelve hours in any twenty-four-hour period.

Slowdown:

When a vessel chooses not to maintain its normal speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater, from the predicted arrival time had the vessel maintained its normal speed capabilities, a charge of \$274.00 per hour, and each fraction thereof, will be assessed for the resultant difference in arrival time.

Delayed Arrival - Port Angeles:

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the vessel does not arrive within two hours of its ETA, or its ETA is amended less than six hours prior to the original ETA, a charge of \$274.00 for each hour delay, or fraction thereof, shall be assessed in addition to all other appropriate charges.

When a pilot is ordered for an arriving inbound vessel at Port Angeles and the ETA is delayed to six hours or more beyond the original ETA, a cancellation charge shall be assessed, in addition to all other appropriate charges, if the ETA was not amended at least twelve hours prior to the original ETA.

Tonnage Charges:

0 to 20,000 gross tons:

Additional charge to LOA zone mileage of \$0.0084 a gross ton for all gross tonnage up to 20,000 gross tons.

20,000 to 50,000 gross tons:

Additional charge to LOA zone mileage of \$0.0814 a gross ton for all gross tonnage in excess of 20,000 gross tons up to 50,000 gross tons.

50,000 gross tons and up:

In excess of 50,000 gross tons, the charge shall be \$0.0974 per gross ton.

For vessels where a certificate of international gross tonnage is required, the appropriate international gross tonnage shall apply.

Transportation to Vessels on Puget Sound:

March Point or Anacortes	\$195.00
Bangor	190.00
Bellingham	225.00
Bremerton	167.50
Cherry Point	260.00
Dupont	120.00
Edmonds	42.50
Everett	72.50
Ferndale	247.50
Manchester	162.50
Mukilteo	65.00
Olympia	155.00
Point Wells	42.50
Port Gamble	230.00
Port Townsend (Indian Island)	277.50
Seattle	18.75
Tacoma	87.50

(a) Intraharbor transportation for the Port Angeles port area: Transportation between Port Angeles pilot station and Port Angeles harbor docks - \$15.00.

(b) Interport shifts: Transportation paid to and from both points.

(c) Intraharbor shifts: Transportation to be paid both ways. If intraharbor shift is canceled on or before scheduled reporting time, transportation paid one way only.

(d) Cancellation: Transportation both ways unless notice of cancellation is received prior to scheduled reporting time in which case transportation need only be paid one way.

(e) Any new facilities or other seldom used terminals, not covered above, shall be based on mileage x \$2.00 per mile.

Delinquent Payment Charge:

1 1/2% per month after 30 days from first billing.

Nonuse of Pilots:

Ships taking and discharging pilots without using their services through all Puget Sound and adjacent inland waters shall pay full pilotage charges on the LOA zone mileage basis from Port Angeles to destination, from place of departure to Port Angeles, or for entire distance between two ports on Puget Sound and adjacent inland waters.

British Columbia Direct Transit Charge:

In the event that a pilot consents to board or disembark a vessel at a British Columbia port, which consent shall not unreasonably be withheld, the following additional charges shall apply in addition to the normal LOA, tonnage and other charges provided in this tariff that apply to the portion of the transit in U.S. waters:

Direct Transit Charge	\$2,107.00
Sailing Delay Charge. Shall be levied for each hour or fraction thereof that the vessel departure is delayed beyond its scheduled departure from a British Columbia port, provided that no charge will be levied for delays of one hour or less and further provided that the charge shall not exceed a period of 12 hours in any 24 hour period.	\$283.00 per hour
Slow Down Charge. Shall be levied for each hour or fraction thereof that a vessel's arrival at a U.S. or BC port is delayed when a vessel chooses not to maintain its normal safe speed capabilities for reasons determined by the vessel and not the pilot, and when the difference in arrival time is one hour, or greater from the arrival time had the vessel maintained its normal safe speed capabilities.	\$283.00 per hour
Cancellation Charge. Shall be levied when a pilot arrives at a vessel for departure from a British Columbia port and the job is canceled. The charge is in addition to the applicable direct transit charge, standby, transportation and expenses.	\$525.00
Transportation Charge Vancouver Area. Vessels departing or arriving at ports in the Vancouver-Victoria-New Westminster Range of British Columbia.	\$514.00
Transportation Charge Outports. Vessels departing or arriving at British Columbia ports other than those in the Vancouver-Victoria-New Westminster Range.	\$649.00

Training Surcharge:

On January 1, 2011, a surcharge of \$15.00 for each pilot trainee then receiving a stipend pursuant to the training program provided in WAC 363-116-078 shall be added to each pilotage assignment.

LOA Rate Schedule:

The following rate schedule is based upon distances furnished by National Oceanic and Atmospheric Administration, computed to the nearest half-mile and includes retirement fund contributions.

LOA	ZONE I	ZONE II	ZONE III	ZONE IV	ZONE V	ZONE VI
(Length Overall)	Intra Harbor	0-30 Miles	31-50 Miles	51-75 Miles	76-100 Miles	101 Miles & Over
UP to 449	263	381	650	968	1,304	1,692
450 - 459	274	388	653	983	1,325	1,700
460 - 469	276	392	665	999	1,343	1,708

470 - 479	285	404	672	1,020	1,347	1,711
480 - 489	294	410	675	1,038	1,355	1,719
490 - 499	298	416	685	1,057	1,371	1,728
500 - 509	313	423	695	1,068	1,383	1,738
510 - 519	315	431	702	1,085	1,398	1,744
520 - 529	319	447	712	1,090	1,410	1,758
530 - 539	329	452	721	1,102	1,432	1,778
540 - 549	334	458	738	1,114	1,454	1,795
550 - 559	341	474	742	1,130	1,466	1,812
560 - 569	353	493	757	1,141	1,479	1,828
570 - 579	361	496	760	1,146	1,495	1,841
580 - 589	376	505	778	1,154	1,503	1,859
590 - 599	393	516	782	1,160	1,526	1,882
600 - 609	408	532	794	1,164	1,544	1,890
610 - 619	431	537	807	1,169	1,559	1,907
620 - 629	447	543	814	1,183	1,577	1,929
630 - 639	468	552	824	1,186	1,591	1,946
640 - 649	486	566	832	1,188	1,604	1,960
650 - 659	520	575	847	1,197	1,624	1,981
660 - 669	530	582	854	1,205	1,642	1,996
670 - 679	550	597	863	1,226	1,660	2,009
680 - 689	557	607	874	1,237	1,674	2,028
690 - 699	574	616	888	1,258	1,692	2,071
700 - 719	599	637	904	1,275	1,725	2,093
720 - 739	634	653	927	1,292	1,758	2,128
740 - 759	659	685	945	1,304	1,795	2,167
760 - 779	685	707	968	1,325	1,828	2,194
780 - 799	719	738	983	1,343	1,859	2,234
800 - 819	748	760	1,002	1,350	1,890	2,268
820 - 839	771	788	1,025	1,371	1,929	2,293
840 - 859	804	820	1,046	1,387	1,958	2,333
860 - 879	834	847	1,064	1,423	1,996	2,367
880 - 899	863	871	1,085	1,455	2,028	2,402

900 - 919	889	900	1,103	1,494	2,071	2,434
920 - 939	917	927	1,130	1,526	2,091	2,468
940 - 959	950	952	1,147	1,559	2,128	2,498
960 - 979	971	980	1,167	1,591	2,167	2,535
980 - 999	1,003	1,002	1,187	1,624	2,194	2,568
1000 - 1019	1,065	1,067	1,240	1,710	2,299	2,678
1020 - 1039	1,094	1,098	1,279	1,758	2,368	2,757
1040 - 1059	1,127	1,125	1,316	1,812	2,435	2,838
1060 - 1079	1,161	1,165	1,355	1,866	2,511	2,922
1080 - 1099	1,196	1,197	1,394	1,920	2,585	3,011
1100 - 1119	1,230	1,234	1,437	1,980	2,662	3,102
1120 - 1139	1,268	1,274	1,481	2,037	2,742	3,194
1140 - 1159	1,304	1,310	1,523	2,098	2,825	3,291
1160 - 1179	1,343	1,347	1,571	2,161	2,909	3,388
1180 - 1199	1,384	1,388	1,616	2,226	2,997	3,491
1200 - 1219	1,427	1,430	1,664	2,293	3,087	3,593
1220 - 1239	1,467	1,473	1,713	2,362	3,177	3,701
1240 - 1259	1,511	1,516	1,763	2,432	3,274	3,811
1260 - 1279	1,555	1,561	1,817	2,505	3,373	3,925
1280 - 1299	1,602	1,609	1,872	2,580	3,471	4,044
1300 - 1319	1,651	1,655	1,927	2,657	3,576	4,164
1320 - 1339	1,701	1,705	1,986	2,736	3,682	4,290
1340 - 1359	1,749	1,756	2,045	2,817	3,792	4,419
1360 - 1379	1,803	1,807	2,106	2,903	3,905	4,549
1380 - 1399	1,855	1,861	2,171	2,989	4,022	4,687
1400 - 1419	1,912	1,918	2,233	3,077	4,142	4,826
1420 - 1439	1,968	1,976	2,301	3,171	4,268	4,971
1440 - 1459	2,029	2,035	2,371	3,265	4,395	5,120
1460 - 1479	2,086	2,094	2,440	3,362	4,527	5,270
1480 - 1499	2,150	2,157	2,512	3,462	4,661	5,429
1500 - Over	2,215	2,222	2,587	3,568	4,800	5,591

WAC 363-116-315 Retirement disbursements. Pilot associations having retirement plans, the expense of which is reimbursed through board established tariffs, shall make such payments to retired pilots as are required by the benefits and enforcement provisions of those plans.

WAC 363-116-35001 Exemption from provisions of WAC 197-10-800. The board of pilotage commissioners of the state of Washington has reviewed its authorized activities and found substantially all of them to be exempt from the provisions of chapter 197-10 WAC, with the exception of authority supplied by the 1975 legislature to the board respecting additional tug shaft horsepower equivalencies which is a part of the "tug escort" 1975 amendments by chapter 125, Laws of 1975 1st ex. sess.

There is presently no intent to exercise this authority. Additionally, said act is currently under constitutional challenge. Thus, the board indicates its intent that if, and when, any authority should be exercised pursuant to this provision, it would do so consistent with the guidelines contained within chapter 197-10 WAC insofar as practicable. (The referenced chapter being the regulations developed by the council on environmental policy.)

WAC 363-116-360 Exempt vessels. (1) Under the authority of RCW [88.16.070](#), application may be made to the board of pilotage commissioners to seek exemption from the pilotage requirements for the operation of a limited class of small passenger vessels, which are not more than five hundred gross tons (international), do not exceed two hundred feet in length, and are operated exclusively in the waters of the Puget Sound pilotage district and lower British Columbia, or yachts, which are not more than seven hundred fifty gross tons

(international), and do not exceed two hundred feet in length. For purposes of this section, any vessel carrying passengers for a fee, including yachts under charter where both the vessel and crew are provided for a fee, shall be considered a passenger vessel.

The owners or operators of the vessel for which exemption is sought must:

(a) Complete and file with the board a petition requesting an exemption at least forty-eight hours prior to planned vessel operations where possible. Petitions filed with less than forty-eight hours notice may be considered by the chair at the chair's discretion on a board-approved form. The form shall include a description of the vessel, the contemplated use of vessel, the proposed area of operation, the names and addresses of the vessel's owner and operator, the areas and dates of planned operations, and such other information as the board shall require.

(b) Pay the appropriate initial application or renewal fee with the submittal of the petition, which is listed in subsection (5) of this section.

(2) All petitions for exemption filed with the board shall be considered at its next regularly or specially scheduled meeting. Consistent with the public interest, the chair may grant an interim exemption to a petitioner subject to final approval at the next board meeting, where special time or other conditions exist.

(3) Any grant of an exemption, including interim exemptions, may contain such conditions as the board, or in the case of an interim exemption, the chair, deems necessary to protect the public interest in order to prevent the loss of human life and property and to protect the marine environment of the state of Washington.

Such conditions may include: A requirement that the vessel employ the services of a pilot on its initial voyage into state pilotage waters; and/or that the master of the vessel at all times hold as a minimum, a United States government license as a master of ocean or near coastal steam or motor vessels of not more than sixteen hundred gross tons or as a master of inland steam or motor vessels of not more than five hundred gross tons, such license to include a current radar endorsement; and/or that the vessel possess specific navigational charts, publications and navigational equipment necessary to ensure safe operation.

(4) The board shall annually, or at any other time when in the public interest, review any exemptions granted to the specified class of small vessels to ensure that each exempted vessel remains in compliance with the original exemption and any conditions to the exemption. The board shall have the authority to revoke such exemption when there is not continued compliance with the requirements for exemption.

(5) Fee Schedule for Petitioners for Exemption

	3 Months or Less	1 Year or Less	Annual Renewal
A. Yachts			
Up to and including 50 feet LOA	\$ 50	\$ 50	\$ 50
Up to and including 100 feet LOA	450	750	300
Up to and including 200 feet LOA	750	1125	450
B. Passenger Vessels			
Up to and including 100 feet LOA	1125	1500	600
Up to and including 200 feet LOA	1500	1500	750

(6) Petitions for annual renewals must be submitted within one year of the expiration of the previous exemption.

WAC 363-116-365 Docking and undocking of certain vessels by the vessels' masters. **On a passenger vessel not requiring a**

tug for docking or undocking, the master of the vessel may maneuver the vessel into or out of its berth under the following procedures and conditions:

(1) The master may not commence maneuvering the vessel until the express consent of the pilot has been given;

(2) Any such consent shall be on a case-by-case basis and be valid only for that specific berthing or departure;

(3) The master may not delegate maneuvering responsibility for the vessel to an officer other than the vessel's staff captain;

(4) The exact location for the exchange of maneuvering responsibilities between the pilot and the master must be part of the consent and the exchange must always occur in close proximity (approximately the vessel's length, but not to exceed twice the vessel's length) to the vessel's berth; and

(5) While the master is maneuvering the vessel pursuant to this section, the pilot shall remain available to advise and assist the master and the master shall be responsible for keeping the pilot informed as to all material aspects of the master's maneuvering of the vessel.

WAC 363-116-370 System of specified disciplinary or corrective actions. When a pilot has received multiple disciplinary actions pursuant to RCW 88.16.100 (1) and/or (2) within any two-year period, the board shall evaluate the pilot and prepare and personally serve upon him/her a notice advising of the board's intended action, the specific ground therefore, and the right to request a hearing pursuant to RCW 88.16.100(4) to challenge the board's action. Such intended action may include the temporary suspension of the pilot from duties until such pilot has satisfactorily completed subsection (1) or (2) of this section:

(1) An approved course-of-study which may include navigation training and testing; or

(2) Any remedial activity or treatment designated by the board to assure fitness and competence for full pilotage duties.

In ordering such disciplinary action, the board shall take into account both the causes of the previous disciplinary actions and the pilot's previous record.

Failure to enter into such corrective action within thirty days of the board's action may be cause for revocation of the pilot's license.

In the event of a temporary license suspension, license reinstatement and resumption of pilotage duties shall not be authorized until the board has reviewed completed activity and formally extended approval. Such approval shall not be unreasonably withheld by the board and shall be reviewed and acted upon within five days of the completion of the activity.

WAC 363-116-400 Procedure for request by steamship company or agent that certain pilots not be assigned to certain vessels for specific safety reasons. When a steamship company or agent believes a particular pilot should not be assigned to pilot that company's vessels for specific safety reasons, a detailed written request, limited to specific safety concerns, may be submitted to the board. In order to be considered, the request must be submitted within ten days of the alleged act or omission causing their specific safety concern.

The board shall investigate the request and shall conduct a hearing at a regularly scheduled board meeting not more than sixty days following receipt of the request and notification of interested persons. The pilot shall be notified in writing and provided with documentation in accordance with WAC 296-11-450. The board shall notify the steamship company or agent and pilot in writing of its subsequent decision and reasons therefore.

In the event that the request is approved, the board shall give the affected pilot a specific list of vessels for which that pilot shall not provide pilotage services as well as the length of time covering such restriction.

WAC 363-116-405 Relieving pilots for cause. A pilot serving on a vessel required by chapter 88.16 RCW to employ a state licensed pilot may be relieved from his/her piloting duties by the ship's master only for cause as provided in this section. The master may relieve a pilot only if the pilot is manifestly incompetent or incapacitated or if the vessel is endangered or *in extremis* due to the pilot's error. If a pilot is relieved for cause under this section another pilot shall be requested and dispatched. In such event, the master shall immediately put the ship to anchor, to the extent it can be done safely, and await the substitute pilot. If anchoring is not possible or prudent, the master shall slow the vessel to the slowest prudent speed until another pilot can be put on board. To the extent possible and practical, after being relieved of his/her duties, the pilot shall remain available to advise and assist the master. In the event a pilot is relieved as provided in this section in the Puget Sound pilotage district, the United States Coast Guard vessel traffic system shall be notified immediately. In the event a pilot is relieved as provided in this section in any pilotage district, the vessel and the pilot promptly shall provide notice to the board of the event and relevant circumstances.

WAC 363-116-410 Definition of Grays Harbor pilotage district. The Grays Harbor pilotage district shall have an outer boundary line between Grays Harbor and Willapa Harbor and the high seas which shall be seaward of a line from Point Brown rear range light to Grays Harbor entrance lighted whistle buoy number three, (latitude N 46-55.00, longitude 124-14.42 W), thence to Grays Harbor entrance lighted whistle buoy number two

(latitude N 46-52.43, longitude 124-12.35 W), thence to Grays Harbor light and from the Willapa Bay light to the Willapa Bay approach lighted whistle buoy "W" (latitude N 46-41.50, longitude 124-10.46 W), thence to the charted northernmost position of Leadbetter Point.

WAC 363-116-420 Summary/temporary license suspension. Summary/temporary suspension of a pilot's license may be made by the chairperson or vice-chairperson of the board of pilotage commissioners when:

(1) A pilot has been involved in any vessel accident where there has been major property damage, loss of life, or loss of a vessel; or

(2) Where there is a reasonable cause to believe that a pilot has diminished capacity or is under the influence of drugs, alcohol, or other substances; and

(3) Such an accident or physical or mental impairment would significantly diminish that pilot's ability to carry out pilotage duties and that the public health, safety, and welfare requires such emergency action. Notification of this suspension shall be made directly to the pilot and the appropriate pilot's association.

Within seventy-two hours an emergency board meeting will be held to determine whether to continue such suspension. In the event the suspension is continued pending proceedings for revocation or other action, an order shall be immediately prepared and notice shall be personally served upon the pilot advising of the board's action.

These further proceedings shall be promptly instituted in the office of administrative hearings.

All final decisions of the administrative law judge shall be subject to review by the superior court of the state of Washington for Thurston County or by the superior court of the county in which the pilot maintains his/her residence or principal place of business, to which court any case with all

the papers and proceedings therein shall be immediately certified by the administrative law judge if requested to do so by any party to the proceedings at any time within thirty days after the date of such final decision. No appeal may be taken after the expiration of thirty days after the date of final decision.

WAC 363-116-500 Tug escort requirements for oil tankers.

(1) RCW 88.16.190(2) requires the escort of a tug or tugs for all oil tankers 40,000 DWT or greater when not in ballast. For purposes of that provision only, deadweight tonnage shall be the maximum summer deadweight tonnage that was assigned to the vessel at the time of construction as reported in Lloyd's Register of Ships. Unless the vessel was structurally altered and remeasured to less than 40,000 DWT, this original deadweight tonnage shall be used for purposes of determining if the vessel requires the appropriate tug escort.

(2) It shall be a violation of this regulation to provide pilotage services to an oil tanker not in compliance with this rule when the pilot has actual knowledge of the noncompliance.

(3) Oil tankers found to be in violation of the provisions of this regulation shall be subject to the provisions of RCW 88.16.150.

(4) The deadweight tonnage provision of this rule is to be used solely for determining the required use of a tug escort.

EXHIBIT C

PERSONAL SERVICES CONTRACT FORMAT INCLUDING GENERAL TERMS AND CONDITIONS (GT&Cs)

CONTRACT FOR PERSONAL SERVICES BETWEEN THE STATE OF WASHINGTON BOARD OF PILOTAGE COMMISSIONERS AND

This Contract is made and entered into by and between the state of Washington, Board of Pilotage Commissioners, hereinafter referred to as the "BPC", and the below named firm, hereinafter referred to as "CONTRACTOR,"

(Contractor Name)

(Address)

(City, State Zip)

Phone:

Email:

Federal ID No.:

WA State UBI No.:

PURPOSE

The purpose of this contract is to

SCOPE OF WORK

The CONTRACTOR will provide services, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Option 1: Identify all tasks, work elements and objectives of the contract, and timetables by which major parts of the work are to be completed. The scope of work may be included within the text of the contract or attached as a separate exhibit as shown in Option 2 below.

Option 2: as included in the CONTRACTOR's Proposal dated _____ attached as Exhibit B, and the BPC'S Request for Proposals attached as Exhibit C.

Exhibit A contains the General Terms and Conditions governing work to be performed under this contract, the nature of the working relationship between the BPC and the CONTRACTOR, and specific obligations of both parties.

The CONTRACTOR shall produce the following written reports or other written documents (deliverables) by the dates indicated below:

All written reports required under this contract must be delivered to _____, the Contract Manager, in accordance with the schedule above.

PERIOD OF PERFORMANCE

Subject to other contract provisions, the period of performance under this contract will be from _____ or date of execution, whichever is later, through _____, unless sooner terminated or extended as provided herein.

OFM FILING REQUIREMENT

Effective Date of Filing – Under the provisions of Chapter 39 RCW, this personal service contract is subject to filing with the Office of Financial Management (OFM). The work may proceed the date of filing with OFM or the date of execution, whichever is later.

COMPENSATION AND PAYMENT

BPC shall pay an amount not to exceed _____ Dollars (\$_____) for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work. CONTRACTOR'S compensation for services rendered shall be based on the following rates or in accordance with the following terms:

NOTE: List detail of compensation to be paid, e.g., hourly rates, number of hours per task, unit prices, cost per task, cost per deliverable, etc. Or reference documents that specify Contractor's compensation and payment, e.g. Contractor's compensation for services rendered shall be base don the schedule set forth in Exhibit B, Fees and Expenses.

NOTE: Expenses are optional. Do not include Expenses paragraph below if expenses are not allowable. If allowable, include only expenses which are appropriate for the contract.

Expenses: CONTRACTOR shall receive reimbursement for travel and other expenses as identified below or as authorized in advance by the BPC as reimbursable. The maximum amount to be paid to the CONTRACTOR for authorized expenses shall not exceed \$_____, which amount is included in the contract total above. Such expenses may include: airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. CONTRACTOR shall receive compensation for travel expenses at current state travel reimbursement rates.

BILLING PROCEDURES AND PAYMENT

NOTE: Payment can be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the contract, payment at conclusion of the contract, etc

BPC will pay CONTRACTOR upon receipt of properly completed invoices, which shall be submitted to the Contract Manager not more often than monthly. The invoices shall describe and document to the BPC'S satisfaction a description of the work performed, the progress of the project, and fees. To receive reimbursement, CONTRACTOR must provide a detailed breakdown of authorized expenses, identifying what was expended and when. A receipt must accompany any single expenses in the amount of \$50.00 or more in order to receive reimbursement.

Payment shall be considered timely if made by the BPC within thirty (30) days after receipt of properly completed invoices. Payment shall be sent to the address designated by the CONTRACTOR.

The BPC may, in its sole discretion, terminate the contract or withhold payments claimed by the CONTRACTOR for services rendered if the CONTRACTOR fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the BPC.

NOTE: *Optional Provision – The BPC shall withhold ten percent (10%) from each payment until acceptance by the BPC of the final report (or completion of the project, etc.)*

CONTRACT MANAGEMENT

The Contract Manager for each of the parties shall be the contact person for all communications and billings regarding the performance of this Contract.

CONTRACTOR Contract Manager	BPC Contract Manager
Enter Contract Manager's Name Enter Name of CONTRACTOR Enter CONTRACTOR Address Enter City, State & Zip Code Phone : () Fax: () Email address: 	Peggy Larson Washington State Board of Pilotage Commissioners 2901 Third Avenue, Suite 500 Seattle, WA 98121 Phone: (206) 515-3904 Fax: (206) 515-3906 Email address: larsonp@wsdot.wa.gov

INSURANCE *(NOTE: Include, if applicable)*

The CONTRACTOR shall provide insurance coverage as set out in this section (or as set forth in the Request for Proposals No. ____). The intent of the required insurance is to protect the state should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the CONTRACTOR or subcontract, or agents of either, while performing under the terms of this contract.

The CONTRACTOR shall provide insurance coverage which shall be maintained in full force and effect during the term of this Contract, as follows:

1. Commercial General Liability Insurance Policy – Provide a Commercial General Liability Insurance Policy, including contractual liability, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the CONTRACTOR is responsible for ensuring that any subcontractors provide adequate insurance coverage for the activities arising out of subcontracts.
2. Automobile Liability – In the event that services delivered pursuant to this contract involve the use of vehicles, either owned or unowned by the CONTRACTOR, automobile liability insurance shall be required. The minimum limit for automobile liability is:

\$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage

3. The insurance required shall be issued by an insurance company/ies authorized to do business within the state of Washington, and shall name the state of Washington, its agents and employees as additional insureds under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance. CONTRACTOR shall instruct the insurers to give BPC 30 days advance notice of any insurance cancellation.

CONTRACTOR shall submit to BPC within fifteen days of the contract effective date, a certificate of insurance which outlines the coverage and limits defined in the Insurance section. CONTRACTOR shall submit renewal certificates as appropriate during the term of the contract.

ASSURANCES

BPC and the CONTRACTOR agree that all activity pursuant to this contract will be in accordance with all the applicable current federal, state and local laws, rules, and regulations.

ORDER OF PRECEDENCE

Each of the exhibits listed below is by this reference hereby incorporated into this contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable federal and state of Washington statutes and regulations
- Special Terms and Conditions as contained in this basic contract instrument
- Exhibit A – General Terms and Conditions
- Exhibit B - Request for Proposals No. _____
- Exhibit C – Contractor’s Proposal dated _____
- Any other provision, term or material incorporated herein by reference or otherwise incorporated

ENTIRE AGREEMENT

This contract including referenced exhibits represents all the terms and conditions agreed upon by the parties. No other statements or representations, written or oral, shall be deemed a part hereof.

CONFORMANCE

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

APPROVAL

This contract shall be subject to the written approval of the BPC’S authorized representative and shall not be binding until so approved. The contract may be altered, amended, or waived only by a written amendment executed by both parties.

THIS CONTRACT, consisting of _____ pages and _____ attachment(s), is executed by the persons signing below who warrant that they have the authority to execute the contract.

[CONTRACTOR’S NAME]

**Washington State Board of Pilotage
Commissioners**

Signature

Signature

Title

Date

Title

Date

GENERAL TERMS AND CONDITIONS

DEFINITIONS - As used throughout this contract, the following terms shall have the meaning set forth below:

- A. "BPC" shall mean the Board of Pilotage Commissioners of the state of Washington, any division, section, office, unit or other entity of the BPC, or any of the officers or other officials lawfully representing that BPC.

- B. "Agent" shall mean the Director, and/or the delegate authorized in writing to act on the Director's behalf.
- C. "Contractor" shall mean that firm, provider, organization, individual or other entity performing service(s) under this contract, and shall include all employees of the Contractor.
- C. "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this contract under a separate contract with the Contractor. The terms "Subcontractor" and "Subcontractors" means Subcontractor(s) in any tier.
- D. "Personal Information" means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers. Personal Information includes "Protected Health Information" as set forth in 45 CFR § 164.50 as currently drafted and subsequently amended or revised and other information that may be exempt from disclosure to the public or other unauthorized persons under either Chapter 42.17 RCW or other state and federal statutes.

ACCESS TO DATA - In compliance with RCW 39.29.080, the Contractor shall provide access to data generated under this contract to BPC, the Joint Legislative Audit and Review Committee, and the state auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of the Contractor's reports, including computer models and methodology for those models.

Contractor agrees to make personal information covered under this agreement available to BPC for inspection or to amend the personal information. Contractor shall, as directed by BPC, incorporate any amendments to the personal information into all copies of such personal information maintained by the Contractor or its subcontractors.

ADVANCE PAYMENTS PROHIBITED - No payments in advance of or in anticipation of goods or services to be provided under this contract shall be made by the BPC.

AMENDMENTS - This contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, also referred to as the "ADA" 28 CFR Part 35 - The Contractor must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

ASSIGNMENT – Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the Contractor without prior written consent of the BPC.

ATTORNEYS' FEES - In the event of litigation or other action brought to enforce contract terms, each party agrees to bear its own attorneys fees and costs.

CONFIDENTIALITY / SAFEGUARDING OF INFORMATION - The Contractor shall not use or disclose any information concerning the BPC, or information which may be classified as confidential, for any purpose not directly connected with the administration of this contract, except with prior written consent of the BPC, or as may be required by law. The Contractor shall sign a Confidentiality Agreement.

CONFLICT OF INTEREST - Notwithstanding any determination by the Executive Ethics Board or other tribunal, the BPC may, in its sole discretion, by written notice to the Contractor terminate this contract if it is found after due notice and examination by the Agent that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW; or any similar statute involving the Contractor in the procurement of, or performance under this contract.

In the event this contract is terminated as provided above, the BPC shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of the BPC provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Agent makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this contract.

COPYRIGHT PROVISIONS - Unless otherwise provided, all Materials produced under this contract shall be considered "works for hire" as defined by the U.S. Copyright Act and shall be owned by the BPC. The BPC shall be considered the author of such Materials. In the event the Materials are not considered "works for hire" under the U.S. Copyright laws, Contractor hereby irrevocably assigns all right, title, and interest in Materials, including all intellectual property rights, to the BPC effective from the moment of creation of such Materials.

Materials means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. Ownership includes the right to copyright, patent, register and the ability to transfer these rights.

For Materials that are delivered under the contract, but that incorporate pre-existing materials not produced under the contract, Contractor hereby grants to the BPC a nonexclusive, royalty-free, irrevocable license (with rights to sublicense others) in such Materials to translate, reproduce, distribute, prepare derivative works, publicly perform, and publicly display. The Contractor warrants and represents that Contractor has all rights and permissions, including intellectual property rights, moral rights and rights of publicity, necessary to grant such a license to the BPC.

The Contractor shall exert all reasonable effort to advise the BPC, at the time of delivery of Materials furnished under this contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this contract. The BPC shall receive prompt written notice of each

notice or claim of infringement received by the Contractor with respect to any data delivered under this contract. The BPC shall have the right to modify or remove any restrictive markings placed upon the data by the Contractor.

COVENANT AGAINST CONTINGENT FEES - The Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. The BPC shall have the right, in the event of breach of this clause by the Contractor, to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

DISPUTES - Except as otherwise provided in this contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with Agent.

1. The request for a dispute hearing must:

- Be in writing;
- State the disputed issue(s);
- State the relative positions of the parties;
- State the contractor's name, address, and contract number; and
- Be mailed to the agent and the other party's (respondent's) contract manager within 3 working days after the parties agree that they cannot resolve the dispute.

2. The respondent shall send a written answer to the requester's statement to both the agent and the requester within 5 working days.

3. The Agent shall review the written statements and reply in writing to both parties within 10 working days. The Agent may extend this period if necessary by notifying the parties.

4. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Contract shall be construed to limit the parties' choice of a mutually acceptable ADR method in addition to the dispute resolution procedure outlined above.

GOVERNING LAW - This contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

INDEMNIFICATION - To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless state, agencies of state and all officials, agents and employees of state, from and against all claims for injuries or death arising out of or resulting from the performance of the Contract. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractors' agents, employees, representatives, or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the state for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the Contract. Contractor's obligation to indemnify, defend, and hold

harmless the state shall not be eliminated or reduced by any actual or alleged concurrent negligence of state or its agents, agencies, employees and officials.

Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless state and its agencies, officials, agents or employees.

INDEPENDENT CAPACITY OF THE CONTRACTOR - The parties intend that an independent contractor relationship will be created by this contract. The Contractor and his or her employees or agents performing under this contract are not employees or agents of the BPC. The Contractor will not hold himself/herself out as or claim to be an officer or employee of the BPC or of the state of Washington by reason hereof, nor will the Contractor make any claim of right, privilege or benefit which would accrue to such employee under law. Conduct and control of the work will be solely with the Contractor.

INDUSTRIAL INSURANCE COVERAGE - The Contractor shall comply with the provisions of Title 51 RCW, Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, BPC may collect from the Contractor the full amount payable to the Industrial Insurance accident fund. The BPC may deduct the amount owed by the Contractor to the accident fund from the amount payable to the Contractor by the BPC under this contract, and transmit the deducted amount to the Department of Labor and Industries, (L&I) Division of Insurance Services. This provision does not waive any of L&I's rights to collect from the Contractor.

LICENSING, ACCREDITATION AND REGISTRATION - The Contractor shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements/standards, necessary for the performance of this contract.

LIMITATION OF AUTHORITY - Only the Agent or Agent's delegate by writing (delegation to be made prior to action) shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this contract is not effective or binding unless made in writing and signed by the Agent.

NONCOMPLIANCE WITH NONDISCRIMINATION LAWS - In the event of the Contractor's non-compliance or refusal to comply with any nondiscrimination law, regulation, or policy, this contract may be rescinded, canceled or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with the BPC. The Contractor shall, however, be given a reasonable time in which to cure this noncompliance. Any dispute may be resolved in accordance with the "Disputes" procedure set forth herein.

NONDISCRIMINATION - During the performance of this contract, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies.

OVERPAYMENTS AND ASSERTION OF LIEN - In the event that the BPC establishes overpayments or erroneous payments made to the Contractor under this contract, the

BPC may secure repayment, plus interest, if any, through the filing of a lien against the Contractor's real property or by requiring the posting of a bond, assignment of deposit or some other form of security acceptable to the BPC or by doing both.

PRIVACY - Personal information collected, used or acquired in connection with this contract shall be used solely for the purposes of this contract. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the BPC or as provided by law. Contractor agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The BPC reserves the rights to monitor, audit or investigate the use of personal information collected, used or acquired by the contractor through this contract. The monitoring, auditing or investigating may include but is not limited to "salting" by the BPC. Contractor shall certify the return or destruction of all personal information upon expiration of this contract. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The Contractor agrees to indemnify and hold harmless the BPC for any damages related to the Contractor's unauthorized use of personal information.

PUBLICITY - The Contractor agrees to submit to the BPC all advertising and publicity matters relating to this Contract wherein the BPC's name is mentioned or language used from which the connection of the BPC's name may, in the BPC's judgment, be inferred or implied. The Contractor agrees not to publish or use such advertising and publicity matters without the prior written consent of the BPC.

RECORDS MAINTENANCE - The Contractor shall maintain books, records, documents, data and other evidence relating to this Contract and performance of the services described herein, including but not limited to accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Contractor shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review or audit by the BPC, personnel duly authorized by the BPC, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

REGISTRATION WITH DEPARTMENT OF REVENUE - The Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this contract.

RIGHT OF INSPECTION - The Contractor shall provide right of access to its facilities to the BPC, or any of its officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this contract.

The Contractor shall make available information necessary for BPC to comply with the client's right to access, amend, and receive an accounting of disclosures of their Personal Information according to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The Contractor's internal policies and procedures, books, and records relating to the safeguarding, use, and disclosure of Personal Information obtained or used as a result of this contract shall be made available to BPC and the U.S. Secretary of the Department of Health & Human Services, upon request.

SAFEGUARDING OF INFORMATION - The Contractor shall not use or disclose Personal Information in any manner that would constitute a violation of federal law, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or any regulations enacted or revised pursuant to the HIPAA provisions and applicable provisions of Washington State law. The Contractor agrees to comply with all federal and state laws and regulations, as currently enacted or revised, regarding data security and electronic data interchange of all Personal Information.

The Contractor shall protect Personal Information collected, used, or acquired in connection with this Contract, against unauthorized use, disclosure, modification or loss. The Contractor shall ensure its directors, officers, employees, subcontractors or agents use it solely for the purposes of accomplishing the services set forth in this agreement. The Contractor and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make it known to unauthorized persons without the express written consent of BPC or as otherwise required by law. The Contractor agrees to implement physical, electronic, and managerial policies, procedures, and safeguards to prevent unauthorized access, use, or disclosure of data in any form. The Contractor shall make the Personal Information available to amend as directed by BPC and incorporate any amendments into all the copies maintained by the Contractor or its Subcontractors.

The Contractor shall certify its return or destruction upon expiration or termination of this Contract and the Contractor shall retain no copies. If the Contractor and BPC mutually determine that return or destruction is not feasible, the Contractor shall not use the Personal Information in a manner other than those permitted or required by state and federal laws.

BPC reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the contractor through this contract. The monitoring, auditing, or investigating may include, but is not limited to, "salting" by BPC. Salting is the act of introducing data containing unique but false information that can be used later to identify inappropriate disclosure of data.

The Contractor shall notify BPC in writing within 5 working days of becoming aware of any unauthorized access, use or disclosure. The contractor will take steps necessary to mitigate any known harmful effects of such unauthorized access including, but not limited to sanctioning employees, notifying subjects, and taking steps necessary to stop further unauthorized access. The Contractor agrees to indemnify and hold harmless BPC for any damages related to unauthorized use or disclosure by the Contractor, its officers, directors, employees, Subcontractors or agents.

Any breach of this clause may result in termination of the contract and the demand for return of all Personal Information.

SAVINGS - In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, the BPC may terminate the contract under the "Termination for Convenience" clause, without the ten day notice requirement, subject to renegotiation at the BPC's discretion under those new funding limitations and conditions.

SEVERABILITY - The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

SITE SECURITY - While on BPC premises, Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire or other security policies or regulations.

SUBCONTRACTING - Neither the Contractor nor any Subcontractor shall enter into subcontracts for any of the work contemplated under this contract without obtaining prior written approval of the BPC. In no event shall the existence of the subcontract operate to release or reduce the liability of the Contractor to the BPC for any breach in the performance of the contractor's duties. This clause does not include contracts of employment between the contractor and personnel assigned to work under this contract.

Additionally, the Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this agreement are carried forward to any subcontracts. Contractor and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the BPC or as provided by law.

TAXES - All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Contractor or its staff shall be the sole responsibility of the Contractor.

TERMINATION FOR CAUSE – In the event the BPC determines the Contractor has failed to comply with the conditions of this Contract in a timely manner, the BPC has the right to suspend or terminate this Contract. Before suspending or terminating the Contract, the BPC shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within 30 days, the Contract may be terminated or suspended. In the event of termination or suspension, the Contractor shall be liable

for damages as authorized by law including, but not limited to, any cost difference between the original Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising and staff time. The BPC reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by the Contractor or a decision by the BPC to terminate the Contract. A termination shall be deemed to be a "Termination for Convenience" if it is determined that the Contractor: (1) was not in default; or (2) failure to perform was outside of his or her control, fault or negligence. The rights and remedies of the BPC provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

TERMINATION FOR CONVENIENCE - Except as otherwise provided in this contract, the BPC may, by 10 days written notice, beginning on the second day after the mailing, terminate this contract, in whole or in part. If this contract is so terminated, the BPC shall be liable only for payment required under the terms of this contract for services rendered or goods delivered prior to the effective date of termination.

TERMINATION PROCEDURES - Upon termination of this contract, the BPC, in addition to any other rights provided in this contract, may require the Contractor to deliver to the BPC any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The BPC shall pay to the Contractor the agreed upon price, if separately stated, for completed work and services accepted by the BPC, and the amount agreed upon by the Contractor and the BPC for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services which are accepted by the BPC, and (iv) the protection and preservation of property, unless the termination is for default, in which case the Agent shall determine the extent of the liability of the BPC. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The BPC may withhold from any amounts due the Contractor such sum as the Agent determines to be necessary to protect the BPC against potential loss or liability.

The rights and remedies of the BPC provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the Agent, the Contractor shall:

1. Stop work under the contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract that is not terminated;
3. Assign to the BPC, in the manner, at the times, and to the extent directed by the Agent, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the BPC has the right, at its discretion, to

settle or pay any or all claims arising out of the termination of such orders and subcontracts.

4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Agent to the extent Agent may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to the BPC and deliver in the manner, at the times, and to the extent directed by the Agent any property which, if the contract had been completed, would have been required to be furnished to the BPC;
6. Complete performance of such part of the work as shall not have been terminated by the Agent; and
7. Take such action as may be necessary, or as the Agent may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the BPC has or may acquire an interest.

TREATMENT OF ASSETS -

- A. Title to all property furnished by the BPC shall remain in the BPC. Title to all property furnished by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in the BPC upon delivery of such property by the Contractor. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the BPC upon (i) issuance for use of such property in the performance of this contract, or (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the cost thereof by the BPC in whole or in part, whichever first occurs.
- B. Any property of the BPC furnished to the Contractor shall, unless otherwise provided herein or approved by the BPC, be used only for the performance of this contract.
- C. The Contractor shall be responsible for any loss or damage to property of the BPC which results from the negligence of the Contractor or which results from the failure on the part of the Contractor to maintain and administer that property in accordance with sound management practices.
- D. If any BPC property is lost, destroyed or damaged, the Contractor shall immediately notify the BPC and shall take all reasonable steps to protect the property from further damage.
- E. The Contractor shall surrender to the BPC all property of the BPC prior to settlement upon completion, termination or cancellation of this contract.
- F. All reference to the Contractor under this clause shall also include Contractor's employees, agents or Subcontractors.

WAIVER - Waiver of any default or breach shall not be deemed to be a waiver of any subsequent default or breach. Any waiver shall not be construed to be a modification of the terms of this Contract unless stated to be such in writing and signed by authorized representative of the BPC.

EXHIBIT D

CERTIFICATIONS AND ASSURANCES

I/we make the following certifications and assurances as a required element of the proposal to which it is attached, understanding that the truthfulness of the facts affirmed here and the continuing compliance with these requirements are conditions precedent to the award or continuation of the related contract:

1. I/we declare that all answers and statements made in the proposal are true and correct.
2. The prices and/or cost data have been determined independently, without consultation, communication, or agreement with others for the purpose of restricting competition. However, I/we may freely join with other persons or organizations for the purpose of presenting a single proposal.
3. The attached proposal is a firm offer for a period of 60 days following receipt, and it may be accepted by the BPC without further negotiation (except where obviously required by lack of certainty in key terms) at any time within the 60-day period.
4. In preparing this proposal, I/we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to this proposal or prospective contract, and who was assisting in other than his or her official, public capacity. If there are exceptions to these assurances, I/we have described them in full detail on a separate page attached to this document.
5. I/we understand that the BPC will not reimburse me/us for any costs incurred in the preparation of this proposal. All proposals become the property of the BPC, and I/we claim no proprietary right to the ideas, writings, items, or samples, unless so stated in this proposal.
6. Unless otherwise required by law, the prices and/or cost data which have been submitted have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by him/her prior to opening, directly or indirectly, to any other Proposer or to any competitor.
7. I/we agree that submission of the attached proposal constitutes acceptance of the solicitation contents and the attached sample contract and general terms and conditions. If there are any exceptions to these terms, I/we have described those exceptions in detail on a page attached to this document.
8. No attempt has been made or will be made by the Proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

9. I/we grant the BPC the right to contact references and others, who may have pertinent information regarding the ability of the Consultant and the lead staff person to perform the services contemplated by this RFP.

We (circle one) **are / are not** submitting proposed Contract exceptions. (See Section 2.10, Contract and General Terms and Conditions.) If Contract exceptions are being submitted, I/we have attached them to this form.

On behalf of the Consultant submitting this proposal, my name below attests to the accuracy of the above statement. *If electronic, also include:* We are submitting a scanned signature of this form with our proposal.

Signature of Proposer

Title

Date